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THE TAITA TAVETA COUNTY RATING BILL, 2016

A Bill for

AN ACT of the County Assembly of Taita Taveta to provide for the imposition of rates on land and buildings in the County and for connected purposes

ENACTED by the County Assembly of Taita Taveta, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Taita Taveta County Rating Act, 2016. Short title.

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

"agricultural rental value rate" has the meaning assigned to it in accordance with paragraph 1 of Schedule 2;

"area rate" has the meaning assigned to it in accordance with paragraph 1 of Schedule 1;

"County Executive Committee Member" means the County Executive Committee Member for the time being responsible for finance.

"county revenue collector" has the meaning given by the County Revenue Administration Act, 2014;

"financial year" means a period of twelve months starting on 1 July;

"improvement rate" has the meaning assigned to it in paragraph 2 of Schedule 3;

"land" includes any improvements on, in or under the land;

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

"rate" means a rate imposed under this Act;

"rateable owner" has the meaning assigned to it by section 7 of the Valuation for Rating Act;

"rateable property" has the same meaning as in the Valuation for Rating Act;

"rating area" means—
The Taita Taveta County Rating Bill, 2016

(a) an area for which a form or method of rating is or may be adopted; or

(b) an area for which a rate is or may be imposed;

"rating authority" means the county government;

"site value rate" has the meaning assigned to it in clause 1 of Schedule 3;

"urban centre" means any urban centre established under the Urban Areas and Cities Act;

"valuation roll" and "supplementary valuation roll" means any valuation roll prepared under the Taita Taveta County Valuation for Rating Act.

PART II—RATING

3. (1) For the purpose of imposing rates, the county assembly may adopt one or more of the following forms of rating—

(a) an area rate in accordance with the First Schedule;

(b) an agricultural rental value rate in accordance with the Second Schedule;

(c) a site value rate or an improvement rate in accordance with the Third Schedule.

(d) where any one of the forms of rating mentioned in subsections (a), (b) and (c) above has been adopted in respect of any rating area, no other form of rating under this subsection shall, at the same time, be adopted in respect of that area;

(2) The county assembly may by legislation adopt different forms of rating for different rating areas;

(3) Where the rating authority has adopted for any rating area a form of rating under subsection (1) (b), the provisions of the Valuation for Rating Act, 2016 shall apply to the form of rating so adopted.

4. (1) Subject to subsection (2), the county government may, adopt one or more of the following methods of rating—

(a) a flat rate upon the area of land;

(b) a graduated rate upon the area of land;
(c) a differential flat rate or a differential graduated rate upon the area of land according to the use to which the land is put, or capable of being put, or for which it is reserved;

(d) an industrial rate upon the area of land used for purposes other than agricultural or residential purposes;

(e) a residential rate upon the area of land used for residential purposes;

(f) such other method of rating upon the area of land or buildings or other immovable property as the county government may resolve, and a rate levied in accordance with any such method as aforesaid shall in this Act be known as an area rate.

(2) The rating authority may adopt different methods of area rating for different parts of the area of the county government and may from time to time vary the method or methods adopted, and may adopt in relation to any rating area the methods of area rating referred to in subsection (1) in the manner following, that is to say—

(i) method (a) or method (b) or method (c) as alternative methods which are mutually exclusive;

(ii) method (d) or method (e), or both, in addition to method (a) or method (b), but not in addition to method (c);

(iii) method (f) shall not be combined with any other method of area rating.

5. (1) The provisions of this Act shall apply to all land in the county of Taita Taveta including public land as defined and provided for in section 25 of the Valuation for Rating Act, Cap. 266, Laws of Kenya.

(2) Despite subsection (1), rates may be imposed only on rateable property.

6. (1) Rates may be imposed by this Act providing for annual county finances or by such other Act as the county assembly determines.

(2) Despite subsection (1), a rate may be imposed using the form of wording set out in Fourth Schedule.
7. (1) The county assembly may impose rates on rateable property in the county for any calendar year or financial year.

(2) For the purpose of changing from a calendar year to a financial year for the imposition of rates, the county assembly may impose rates on rateable property in the county for a period starting on 1 January in a year and ending on 30 June in the same year.

8. (1) If rates imposed for calendar years are not imposed for a particular calendar year, then the rates for that calendar year are deemed to be the rates that were imposed for the immediately preceding calendar year.

(2) If rates imposed for financial years are not imposed for a particular financial year, then the rates for that financial year are deemed to be the rates that were imposed for the immediately preceding financial year.

9. (1) A rate becomes due and payable—

(a) if the rate is imposed for a calendar year, on 1 January of that calendar year; and

(b) if the rate is imposed for a financial year, on 1 July of that financial year; and

(c) if the rate is imposed for a six month period under section 7 (2), on 1 January being the first day of that six month period.

(2) The rating authority must by notice in the County Gazette specify the date on which a rate becomes payable and may publish that date in two newspapers of wide circulation in the county.

(3) For the purposes of the Act, the valuation roll or any supplementary valuation roll in force on the day on which any rate becomes payable is conclusive evidence of all matters included in such roll.

10. (1) It is the duty of the rateable owner of any land to pay the amount assessed as rate due at the date when a rate imposed on that land becomes payable.

(2) If the land subject of the rate payment is jointly owned and registered as such or owned by tenants in common, the owners shall be jointly and severally liable for the payment of the rate.
(3) If the rateable owner of the land is absent from Kenya, any person receiving the rent or being in charge or control of the land is liable for the payment of the rate.

11. (1) Rates shall be paid to the county revenue collector or any other person authorised by the rating authority to collect rates.

(2) Rates assessed are payable—

(a) by electronic transfer of funds or such other ways as are approved by the county revenue collector; or

(b) at the offices of the rating authority or at any other place as is determined by the county revenue collector.

(3) The county revenue collector shall issue a receipt for the payment of any rates to the person who paid the rates.

12. The rating authority may allow such discount as determined by the country assembly on any rate paid in full on or before the day on which the rate becomes payable.

13. The rating authority may charge interest on any amount of a rate remaining unpaid after the day on which the rate became payable, at a rate determined by the county assembly.

14. (1) If any rate or any part of a rate remains unpaid after the day on which the rate became payable, the rate or part of the rate, as the case may be, and any interest on any such unpaid rate or part as provided for in section 13, is recoverable in a court of competent jurisdiction as a debt due and owing to the rating authority from the person liable for payment of the rate.

(2) The county revenue collector is authorised to sue for and recover the debt on behalf of the rating authority.

(3) A certificate signed by the county revenue collector and certifying that—

(a) an amount of rates or part of the amount is or was due and payable on or before a certain date; and
(b) the amount or a part of the amount has not been paid on or before that date;

is admissible as evidence against a defendant in proceedings brought under this section, and is prima facie evidence as to the matters so certified.

15. (1) If any rate or part of any rate remains unpaid after the day on which the rate became payable, the rating authority may serve a written notice under subsection (2) upon any person paying rent to the owner of the land in respect of which such rate was imposed.

(2) The written notice—

(a) shall state the amount of such arrears, which may include interest calculated in accordance with section 13; and

(b) shall state that all future payments of rent (whether already accrued or not) by the person paying the rent are to be made directly to the rating authority until such arrears and interest have been paid in full.

(3) The notice operates for all purposes to transfer to the rating authority the right to recover and receive the rent due and thereby discharge the tenant from paying rent to the rateable owner.

16. (1) Any rate due, together with interest calculated in accordance with section 13, is a charge against the land on which the rate was imposed.

(2) If the title to such land is registered under any law relating to the registration of titles to land, the rating authority may deliver a notification of such charge, in the prescribed form, to the registrar who must register it against the title to that land and the charge takes priority in accordance with such law.

17. The rating authority may, upon payment of the prescribed fee by any person, issue to that person a statement of the current status of the payment of rates for an area of land.

18. Documents may be published, sent or served for the purposes of this Act in the Kenya Gazette and County Gazette and in case of service, to the last known address of
the rateable person or by affixing the document at the premises or land subject of the matter.

19. The County Executive Committee Member for lands may appoint one or more county public officers within the meaning of the County Governments Act, 2012 or other persons to value land for the purposes of preparing a draft valuation roll or draft supplementary valuation roll under the Valuation for Rating Act.

PART III— MISCELLANEOUS PROVISIONS

20. The County Executive Committee Member may with the approval of the county assembly and in accordance with regulations, waive the payment of rates or penalties on rates which are due or exempt any person or class of persons from payment of rates.

21. (1) The County Executive Committee Member may make rules generally for the better carrying out of the provisions and purposes of this Act, and different rules may be made in respect of different forms of rating or different rating areas.

(2) Without limiting subsection (1), rules may be made for the following purposes—

(a) the manner of collection of rates;
(b) prescribing cases in which rates may be reduced or remitted;
(c) prescribing the cases or circumstances in which the rating authority is to or may grant exemption from the payment of rates or of any rate or class of rates and the persons and classes of persons who may be exempted;
(d) prescribing the extent to which any land is to be exempted from the payment of area rates; or
(e) prescribing fees.

22. (1) If, immediately before the coming into operation of this Act, there is in force under any law a form or method of rating in respect of any area of the county which the county assembly is empowered to adopt under this Act, that form or method of rating continues to apply in respect of that area as if adopted by the county
assembly, subject to such modifications (if any) as may be necessary to bring such form or method of rating into conformity with the provisions and requirements of this Act and any rules made under this Act.

(2) Any rules, in force immediately before the coming into operation of this Act, that apply to any form or method of rating which is continued under subsection (1) are deemed to have been made under section 19 and are, except to the extent of any inconsistency with the provisions or requirements of this Act, to continue in force in respect of such form or method of rating until rules are made under this Act to replace them.

(3) Any rules, in force immediately before the coming into operation of this Act, that exempt any charitable institution from the payment of rates in respect of any area in the county are deemed to have been made under section 19 and are, except to the extent of any inconsistency with the provisions or requirements of this Act, to continue in force until rules are made under this Act to replace them.

(4) A valuation roll or supplementary valuation roll that, but for the operation of the Valuation for Rating Act, would have been in force immediately before the coming into operation of this Act in respect of an area of the county, is deemed to be in force for the purposes of this Act.

First Schedule—Area Rate
Section 3(1) (a)

Area rate

1. An area rate is a rate imposed on an area of land, and the county assembly may for an area rate adopt one or more of the following methods of rating—

(a) a flat rate upon the area of land;

(b) a graduated rate upon the area of land;

(c) a differential flat rate or a differential graduated rate upon the area of land according to the use to which the land is put, or capable of being put, or for which it is reserved;

(d) an industrial rate upon the area of land used for other than agricultural or residential purposes;
(e) a residential rate upon the area of land used for residential purposes;

(f) such other method of rating upon the area of land or buildings or other immovable property as the county assembly may approve.

2. The County Assembly may adopt different forms of rating for different rating areas.

Second Schedule—Agricultural rental value rate

Section 3(1) (b)

rental value rate

1. An agricultural rental value rate is a rate imposed on the annual value of agricultural land.

Definitions

2. In this Schedule, “agricultural land” and “annual value” have the same meaning as in the Valuation for Rating Act (Cap 266)

Third Schedule—A site value rate or an improvement rate

Section 3(1) (c)

Site value rate

1. A site value rate is a rate imposed on the value of unimproved land as appearing in a valuation roll or supplementary valuation roll.

Improvement rate

2. An improvement rate is a site value rate in combination with a rate on the assessment for improvement rate as appearing in a valuation roll or supplementary valuation roll.

Application of Valuation for Rating Act

3. If a site value rate or an improvement rate is adopted, the Valuation for Rating Act (Cap 266) including relevant definitions applies to the form of rating so adopted.

Fourth Schedule—Wording to impose a rate

Section 6(2)

Imposition of rate

1. A rate is imposed on all rateable property in the
county for the calendar year starting on 1 January, 2016 and the amount of the rate is 4 per cent of the unimproved value of the rateable property.

SCHEDULE 3—A SITE VALUE RATE OR AN IMPROVEMENT RATE

Section 3 (1) (c)

1. Site Value Rate

A site value rate is a rate imposed on the value of unimproved land as appearing in a valuation roll or supplementary valuation, being a valuation roll or supplementary valuation roll that does not include the value of land.

2. Improvement Rate

An improvement rate is a site value rate in combination with a rate on the assessment for improvement rate as appearing in a valuation roll or supplementary valuation roll.

3. Schedule 3 definitions

In this Schedule, “assessment for improvement rate”, “value of land” and “value of unimproved land” have the same meaning as in the Valuation for Rating Act, Cap 266 Laws of Kenya.
MEMORANDUM OF OBJECTS AND REASONS

The main object of this Bill is to provide for the imposition of property rates in Taita Taveta county in accordance with Article 209 (3) (a) of the Constitution. With the repeal of the County Government Public Finance Management Transition Act on 30th, September 2013, it is no longer possible to rely on the Rating Act (national legislation) to impose rates. However, for now, the Bill continues to rely on land valuations prepared under the Valuation for Rating Act, Cap 266, of the Laws of Kenya.

Part I contains preliminary provisions specifically on the date of commencement of the Act and the interpretation clause which defines terms used in the Bill.

Part II contains the provisions on forms of rating that may be adopted by the county government, depending on the classification or zoning of the land, how rates may be imposed stating that the county assembly is the body mandated to determine the rates via the annual county Finance Bill. This part also provides for the date or time when rates will become due, mode of payment, the person or persons responsible for payment of rates and the consequences of default of payment which include imposition of penalties on the unpaid rates and right of civil proceedings against the rateable persons to recover the unpaid rates.

Part III gives power to the county executive committee member for Finance to make regulations that will give effect to provisions of this Act including reduction, exemption from paying and waiver of rate payment. It also contains the saving clause that allows existing forms and methods of rating to continue as if they had been adopted by the county assembly.

The enactment of this Bill shall not occasion additional expenditure of public funds.

FRANCIS R. TERERE,
Member of County Assembly.