Bill for Introduction into the County Assembly of Nyeri—

The Nyeri County Jiinue Fund Bill, 2017

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THE NYERI COUNTY JIINUE FUND BILL, 2017
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THE NYERI COUNTY JIINUE FUND BILL, 2017

A Bill for

AN ACT of the County Assembly of Nyeri to provide for the establishment of, administration and use of the Jiinue Fund and for connected purposes

ENACTED by the County Assembly of Nyeri, as follows—

PART 1—PRELIMINARY

Short Title and Commencement

1. This Act may be cited as the Nyeri County Jiinue Fund Act, 2017.

Interpretation

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

“Act” means the Nyeri County Jiinue Fund Act, 2017;

“Affirmative Action Groups” means women, youth and persons with disabilities;

“Administrator” means the Chief Executive Officer and the Accounting Officer responsible for the day to day functioning of the Fund appointed in accordance with Section 116 of the Public Finance Management Act, 2012;

“County Executive Member” means the County Executive Member for the time being responsible for matters relating to youth, women, persons with disability and special programmes;

“County Assembly” means the County Assembly of Nyeri;

“Chief Officer” means the Chief Officer for the time being responsible for matters relating to youth, women and persons with disability;

“Fund” means the Nyeri County Jiinue Fund established under section 3 of the Act;

“Grants” means money given to the affirmative action groups for a particular purpose; and

“Loan or credit facilities” means any loan given as provided for under this Act and the regulations;
PART II—ESTABLISHMENT OF JIINUE FUND

Establishment of the Fund

3. (1) There is established a Fund to be known as Nyeri County Jiinue Fund.

Sources of the Fund

(2) The Fund shall consist of—

(a) monies allocated and appropriated to the Fund by the County Assembly;
(b) grants, gifts and donations;
(c) income generated from investment and loaning activities of the Fund; and
(d) any other monies accruing to or received by the Fund from any other source.

Objects and purpose of the Fund

4. The object of the Fund is to—

(a) improve and stimulate the economy and standard of living of the affirmative action groups in the County;
(b) provide credit facilities for the affirmative action groups to enable them engage in profitable activities;
(c) promote and develop enterprises that enhance economic growth of the affirmative action groups in the County; and
(d) provide limited grants in appropriate cases to affirmative action groups to enable them engage in economic activities. Provided that the amounts disbursed under this fund as grants shall not exceed 10% of the total amount allocated to the fund in each financial year.

Establishment and Composition of the Committee

5. (1) There is established a Committee known as the County Jiinue Fund Committee consisting of—

(a) the chairperson appointed by the County Executive Member for Finance from persons who are not public officers and who shall be competitively sourced;
(b) the chief officer responsible for finance or his/her representative;
(c) the chief officer for the time being responsible for Women, Youth and Persons with disabilities affairs;
(d) the Fund Administrator;
(e) one person to represent the youth appointed by the youth groups/organizations in the County;
(f) one person to represent persons with disabilities appointed by groups/organizations representing persons with disabilities in the County; and
(g) one person to represent women appointed by the women group/organizations in the County.

(2) For a person to qualify to be the chairperson of the committee he or she must meet the following criteria—

(a) hold a degree in any of the social sciences from a university recognized in Kenya;
(b) have at least five years' experience in the field of social-economic development or any other related field, 3 of which is at management level; and
(c) meets the requirements of chapter six of the Constitution of Kenya.

(3) For a person to qualify to be appointed under section 5 (1) (e) (f) and (g) he/she must meet the following criteria—

(a) hold a diploma in any of the social sciences; and
(b) meet the requirements of Chapter Six of the Constitution of Kenya.

(4) The chairperson and the members referred to under paragraph 5 (1) (e) (f) and (g) shall hold office for a period of three years and may be eligible for re-appointment for a further final term of three years.

**The Fund Administrator**

6. (1) The County Executive Member for Finance shall appoint the Administrator of the Fund in accordance with the provisions of section 116 (2) of the Public Finance Management Act who shall hold office on terms and conditions of service specified in the instrument of appointment.

(2) The Fund administrator shall be Chief Executive Officer and the Accounting Officer of the Fund.

(3) The Fund Administrator shall—

(a) supervise and control the day to day administration of the Fund;
(b) be responsible for the day to day management of the affairs and staff in the service of the committee;
(c) prepare monthly returns on the movement of funds as appropriate for submission to the Committee;

(d) keep or cause to be kept proper books of accounts and other books and records related to the Fund;

(e) operate the bank account for the Fund;

(f) preparation of financial statements for the fund for each financial year; and

(g) not later than three months after the end of each financial year, submit financial statements relating to those accounts to the Auditor General and also to the County Assembly.

Functions of the Committee

7. The functions of the Committee shall be —

(a) provide access to capital and finances to the affirmative action groups in the County;

(b) receive, consider and approve applications from the Sub-County Fund committees as forwarded;

(c) oversee the management of the Fund;

(d) oversee timely and efficient disbursement of monies paid from the Fund;

(e) submit quarterly report to the County Executive Member on the management of the Fund;

(f) raise and solicit funds and any other assistance for the Fund with the approval of the County Executive member;

(g) set the criteria and conditions for granting of loans and grants;

(h) receive gifts, donations, grants or endowments made to the Fund;

(i) establish and maintain links with other persons, bodies or organizations within or outside Kenya as the committee may consider appropriate for the furtherance of the purposes for which the Fund is established;

(j) recover and collect any amounts of money due to the Fund from the loan beneficiaries;

(k) cause to be prepared quarterly and annual reports on the operations and performance of the Fund for submission to the County Executive Member for Finance; and

(l) perform and exercise all other functions and powers conferred on the committee by this Act or any other Kenyan Law.
Removal and vacancy of office

8. (1) A member of the Committee may be removed from office for—

(a) gross violation of the Constitution of Kenya or any other Kenyan Law;
(b) gross misconduct, whether in the performance of the members functions or otherwise;
(c) physical or mental incapacity to perform the functions of office;
(d) incompetence or neglect of duty;
(e) embezzlement of public funds; or
(f) bringing the image of the committee into disrepute through unbecoming personal conduct.

(2) The office of a member of the Committee, shall fall vacant if the member—

(a) resigns in writing addressed to the chair of the committee;
(b) is adjudged bankrupt by a competent court of law;
(c) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months, or if the offence directly or adversely affects one’s status as a member of the Committee;
(d) is absent for three consecutive meetings of the Committee without a reasonable excuse; or
(e) upon death.

(3) Before a member is removed from office under subsection (1), the member shall be given an opportunity to defend him/herself before an Ad Hoc committee to be constituted by the County Executive Member. The Ad Hoc committee shall be an independent committee and shall be composed of three persons who are not serving in the committee.

(4) Where the office of the Chairperson or member becomes vacant under subsection (1) and (2), the secretary shall within 7 days notify the appointing authority of vacancy for appointment of a person to replace the member.

Powers of the Committee

9. (1) The Committee shall have all the powers necessary for the proper performance of its functions under this Act.
(2) Without prejudice to the generality of subsection (1), the Committee shall have power to—

(a) enter into contracts with the approval of the County Executive Member for Finance;

(b) manage and control the Fund in a manner and for purposes that best promotes the object for which the Fund is established;

(c) subject to the provisions of this Act, exercise discretion in the application of the Fund; and

(d) exercise all other lawful powers as may be conferred by this Act or County Executive Member for Finance.

Role of County Executive Committee Member for Finance

10. The County Executive Member for Finance shall—

(a) designate a person responsible for administering the Fund;

(b) provide regulations for the administration and management of the Fund;

(c) may wind up the Fund with the approval of the County Assembly;

(d) accept, in consultation with the Central Bank of Kenya, all money payable under the loan in any currency that the County Executive Member finds appropriate;

(e) agree at any time, in consultation with the Board to the variation of any security given in respect to the loan.

Staff of the Fund

11. The County Public Service Board may on behalf of the Committee second or recruit such staff as shall be necessary for the proper discharge of the objectives of the Fund.

PART III—ESTABLISHMENT OF THE JIINUE SUB-COUNTY FUND COMMITTEES

Establishment of Jiinue Sub-County Fund Committees

12. (1) There is established the Jiinue Sub-County Fund Committees. The Sub-County Fund Committees established under this subsection shall be as listed in the Second Schedule of this Act.

(2) The Jiinue Sub-County Fund Committee shall consist of the following persons appointed by the County Executive Member—
(a) three representatives each representing the youth, persons with disabilities and women who within themselves will elect the Chairperson;

(b) one person representing the Faith Based Organizations;

(c) one person representing special programmes, youth and sports department;

(d) the Sub-County Administrator who shall be the secretary; and

(e) a representative of the existing National Government machinery effecting affirmative actions in the County.

(3) The County Executive Member shall make guidelines for purposes of appointment of Sub-County Fund Committee members under clause 11(2) (a), (b) and (e).

(4) For a person to qualify as a member of the Sub-County Committee the person must meet the following criteria—

(a) hold a post-secondary certificate in any of the social sciences; and

(b) meet the requirements of Chapter Six of the Constitution of Kenya.

(5) Members appointed under clause 11 (2) a), (b) and (c) shall hold office for a period of three years and shall be eligible for re-appointment for a further final term of three years.

Functions of the Sub-County Fund Committee

13. The functions of the Sub-County Fund Committees shall be to—

(a) receive and consider loan/grant applications within the Sub-County;

(b) make recommendations to the Committee for the award of loans/grants to the eligible persons under this Act;

(c) monitor loan/grant recipients and train them on the proper use of the funds received and make report to the Committee;

(d) ensure repayments of loans;

(e) keep all proper records of all the applicants and prepare quarterly reports for submission to the Committee; and

(f) perform such other functions as may be assigned by the Committee.
Vacancy in the office of a member of the Sub-County Fund Committee

14. (1) The office of a member of the Sub-County Committee, other than that of the Sub county Administrator and persons representing special programmes, youth and sports departments shall fall vacant for the same reasons as for the office of a member of the Committee enlisted in clause 8 (2) of this Act.

(2) Where the office of a member becomes vacant under subsection (1) the secretary of the Sub-County Fund Committee shall with the consultation of the County Executive Committee Member, organize for the appointment of a person to replace the member.

PART IV—APPLICATION FOR LOANS/GRANTS

Application for Loans/Grants

15. (1) An application under this Act shall be in the prescribed form provided for in the First Schedule of this Act.

(2) The criteria for consideration of an application and granting of a loan/grants from the Fund shall be in accordance with the regulations made under the first schedule of this Act.

(3) Any loan/grants application shall be received by the Sub-County Fund Committee for purposes of review and recommendation to the Committee.

(4) The Sub-County Fund Committee shall upon receipt of a loan or grant application as provided for under sub section (3), either—

(a) approve the application

(b) reject the application

(5) Where the Committee rejects an application under sub-section 4 (b) it shall within 14 days, notify the applicant in writing the reasons for the rejection.

PART V—FINACEIAL PROVISIONS

Capital of the Fund

16. The initial capital of the fund shall be One Hundred Million shillings appropriated by the County assembly in the Financial Year 2016/2017.

Fund Expenditure

17. There shall be paid from the Fund—
(a) all loans/grants approved by the Committee; and
(b) recurrent and operational expenses incurred in the administration of the Fund which amount shall not be more than 3% of the total monies in the Fund as provided for by the Public Finance Management Act.

Bank Account

18. The Committee may open bank accounts of the Fund and such other accounts in financial institutions as may be decided by the Committee with the approval of the County Executive Member for Finance.

Financial Year

19. The financial year of the Fund shall be the period of twelve months beginning the first day of July and ending on the 30th Day of June in the following year.

Estimates of Income and Expenditure

20. (1) At least three months before the commencement of each financial year, the administrator of the fund shall cause to be prepared estimates of the revenue and expenditure of the Fund for that Year

(2) The annual estimates shall make provisions for all the estimates of expenditure of the Committee and the Fund for the relevant financial year and shall provide for—

(a) the grant of loans/grants to eligible persons in the County

(b) the cost of the administration and operations of the Fund including payment of salaries, allowances, pensions, gratuities and other administrative charges payable to the staff of the committee.

(3) The financial estimates referred to under sub-section (1) and (2) shall differentiate between recurrent and disbursable expenditure.

(4) The annual estimates shall be approved by the Committee before the commencement of the financial year to which they relate and shall be submitted to the County Executive Member for Finance.

(5) No expenditure shall be incurred by the Committee except in accordance with the annual estimates approved under sub section (4).
PART VI—GENERAL PROVISIONS

Annual Report and Publication

21. Within a period of three months after the end of each financial year the fund administrator shall submit to the Auditor General the accounts prepared under section 20 (1) in respect of that year together with a statement of income and expenditure of the fund.

Offences and Punishment

22. (1) A person commits an offence who—

(a) in order to benefit oneself or some other person, knowingly makes any false statement or representation or produces, furnishes, or causes to be produced or furnished, any document or information which he or she knows to be false.

(b) obtains the recommendation of any of the Sub-County Fund Committee under this Act by duress or undue influence

(2) A person who commits an offence under sub section (1) (a) and (b) shall be liable upon conviction to a fine of not less than KSh. 300,000 and not more than KSh. 500,000 or imprisonment for a term of three years or both and shall be required to remit any amount payable by the Fund at an interest of prevailing bank rates.

Civil Proceedings

23. (1) All sums due to the Fund shall be recoverable as debts due to the Committee and without prejudice to any other remedy, shall be a civil debt recoverable summarily.

(2) An action for the recovery of loans or penalty under this Act may be instituted and conducted by an authorized officer of the Fund.

(3) Notwithstanding any other written law, the assets of the Fund shall not be liable to attachment under any process of law.

Protection from Civil Liability

24. No act, matter or thing done or omitted to be done by—

(a) a member of the Committee;

(b) a member of staff or other person in the service of the Committee; or

(c) any person acting under the direction of the Committee; shall, if that act, matter or thing was done in good faith in the execution of a duty or direction, render that member or person personally liable to any civil liability.

Regulations

25. The County Executive Member shall after consultation with the Committee, make regulations for the proper functioning of the Fund.
The Nyeri County Jiinue Fund Bill, 2017

SCHEDULES

SCHEDULE 1—APPLICATION FORM

NYERI COUNTY JIINUE FUND APPLICATION FORM

Application No: ......................... Date received: .....................

SECTION 1: Background information

<table>
<thead>
<tr>
<th>Group Data</th>
<th>Sub County</th>
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<tr>
<td>Group Name</td>
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<tr>
<td>Reg. No.</td>
<td>Ward</td>
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<td>Date of Registration</td>
<td>Village</td>
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<td>Contact Address</td>
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(Attach copy of registration certificate)

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<th>Banking information</th>
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<td>Bank Name:</td>
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<td>Branch:</td>
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<td>Account No.</td>
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<th>Account Signatories</th>
<th>Signature</th>
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Bank: We confirm that the above banking information is correct.

Signature.......................... Stamp........................................

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<th>Membership profile</th>
<th>No of Members</th>
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(Attach a list of group members clearly indicating their names as they appear on their National ID and signature of each member)
5. LOCATION OF BUSINESS/GROUP
Township/Estate/Village...............Plot No. /Street.........................
Church/Mosque/Primary School to the business..............................

6. BRIEF BACKGROUND OF THE GROUP
(i) Purpose/Objective (reasons for forming group)
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(ii) Activities undertaken
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(iii) Group’s achievements
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7. AMOUNT OF LOAN APPLIED FOR
Loan Applied for KSh.................................................................

8. STATE THE TYPE OF PROPOSED BUSINESS.
Is it start up or expansion?

<table>
<thead>
<tr>
<th>No.</th>
<th>Name of owner</th>
<th>ID No.</th>
<th>Nature of Business</th>
<th>Start up or expansion</th>
<th>Mobile</th>
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(a) Does the group have or want to start a joint/common business? (Tick one) Yes.............No.............

(b) If YES state Business type (Tick)
   (i) Start up (New)........
   (ii) Expansion.........................

(c) If NO, state each individual business or project in section 9.

9. BUSINESSES INDIVIDUAL MEMBERS PROPOSE TO UNDERTAKE

Complete table

(Attach additional list for more members)

10. OTHER MEMBERS GUARANTEE AND COMMITMENT TO LOAN REPAYMENT

We, the undersigned are jointly and severally liable for repayment of loan in the event of default and shall not be eligible for additional loans unless the amount in default has been cleared in full.

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<th>No</th>
<th>Name</th>
<th>ID No</th>
<th>Telephone</th>
<th>Signature</th>
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11. Has your group received funding from the following sources before? (Tick one)
   (i) Uwezo Fund Yes ☐ No ☐
   (ii) Women Enterprise Fund Yes ☐ No ☐
   (iii) Youth Enterprise Development Fund Yes ☐ No ☐
   (iv) National Development Fund for Persons With Disability Yes ☐ No ☐
If applicable, please list the source(s) of funding and project(s) funded

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<thead>
<tr>
<th>Source(s) of funding</th>
<th>Project(s) funded</th>
<th>Amount (KSh)</th>
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13. LOAN TERMS & CONDITIONS BEFORE DISBURSEMENT

We, the undersigned, being the validly elected leaders of the group hereby commit the group individually and jointly to repay the loan amount disbursed in ______ equal installments after the ______ month’s grace period. We also confirm that the above information is true and authorize the Fund to:

(i) Share information of our credit history with Credit Reference Bureaus

(ii) Confirm bank details with our bankers as and when necessary

(a) Chairperson: .................. ID.No ........................................
Tel No: .................. Signature: ........ date: ..............

(b) Secretary: .................. ID.No ........................................
Tel No: .................. Signature: ........ date: ..............

(c) Treasurer: .................. ID.No ........................................
Tel No: .................. Signature: ........ date: ..............

NB: Please attach 2 current signed minutes of group meeting(s) that agreed to the terms and conditions of the borrowing.

14. I certify that I know the members of the group and that they are of good conduct to access public funds.

Name of Ward Administrator/village administrator: ........ Tel: ........
Signature: .................. Official stamp & date: ..................
Schedule 2—Jiinue Sub-County Fund Committees

(a) Nyeri Sub-County Fund Committee
(b) Tetu Sub-County Fund Committee
(c) Othaya Sub-County Fund Committee
(d) Mathira West Sub-County Fund Committee
(e) Mathira East Sub-County Fund Committee
(f) Kieni East Sub-County Fund Committee
(g) Kieni West Sub-County Fund Committee
(h) Mukurwe-ini Sub-County Fund Committee

Schedule 3—Third Schedule—conduct of business and affairs of the Committees

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEES

1. A member of the Committee may—

(a) at any time resign from office by notice in writing to the Executive Member for the time being responsible for matters relating to youth, women, persons with disability and special programmes;

(b) be removed from office by the Executive Member for the time being responsible for matters relating to youth, women, persons with disability and special programmes, if the person—

(i) has been absent for three consecutive meetings of the Committee without the permission of the chairperson;

(ii) is convicted of a criminal offence, and sentenced to imprisonment for a term exceeding 6months;

(iii) is convicted of an offence involving dishonesty or fraud;

(iv) is adjudged bankrupt, or enters into a composition scheme of arrangement with his or her creditors;

(v) is incapacitated by prolonged physical or mental illness, or is deemed otherwise unfit to discharge his or her duties as a member of the Committee; or

(vi) fails to comply with any of the provisions of this Act.
2. (1) The Committee shall meet not less than three times in every financial year, and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least four members shall, convene a special meeting of the Committee at any time for the transaction of the business of the Committee.

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

(4) The quorum for the conduct of the business of the Committee shall be five members including the chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the Committee at which he or she is present but, in his or her absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by a majority of votes of the members present and voting and, in the 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 Committee shall be invalid by reason only of a vacancy among the members thereof.

3. (1) If a member is directly or indirectly interested in any matter before the Committee, and is present at a meeting of the Committee at which the matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the matter, or be counted in the quorum of the meeting during consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Committee may permit the member to participate in the deliberations subject to such restrictions as it may impose, but such member shall not have the right to vote on the matter in question.

(2) A member of the Committee shall be considered to have a conflict of interest for the purposes of this Act if he or she acquires any pecuniary
or other interest that could conflict with the proper performance of his or her duties as a member of the Committee.

(3) Where the Committee becomes aware that a member has a conflict of interest in relation to any matter before the Committee, the Committee shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the chairperson has a conflict of interest he or she shall, in addition to complying with the other provisions of this section, disclose the conflict in writing to the Executive Member.

(5) Upon the Committee becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Committee, and the member with the conflict of interest shall not vote on this determination.

4. Within three months of the commencement of this Act, the Committee shall adopt a code of conduct prescribing standards of behaviour to be observed by the members and staff of the Committee in the performance of their duties.

5. The Committee shall cause minutes of all resolutions and proceedings of meetings of the Committee to be entered in books kept for that purpose.
MEMORANDUM OF OBJECTS AND REASONS

"Jiinue" is a Swahili word meaning "empowering". Women, person with disabilities and the youth have in the past been discriminated against. This has put them at a disadvantage politically, economically and socially. In the recent years however there have been a number of major improvements to the legal and policy framework with regards to these special interest groups. The Constitution of Kenya in particular focuses on equality where the state should not discriminate against any person on the grounds of sex, disability, age among other grounds.

The importance of such affirmative action has far reaching effects in the society at large. First it promotes diversity and encourages public welfare for the common good by increasing opportunities for this category of persons. This in turn decreases the potential for conflict as members of this category of group finds themselves at the same level with other members of the society politically, economically and socially. Secondly it enables this category of persons to show case their talents and skills which would have remained untapped.

The principal object of this Act is therefore to provide for a legal framework for Jiinue Fund; a Fund meant to improve the economy and standard of living of women, persons with disabilities and the youth within the Nyeri County. The Act provides for the establishment of institutions of the Fund responsible for administering the Fund.

The enactment of the Act shall occasion additional expenditure of public funds and the Act therefore is a Money Act within the meaning of section 21 (4) of the County Governments Act.

Dated the 16th March, 2017.

RINYIRU MARETE,
Chairperson, Special Programmes, Gender and Disability Mainstreaming,
Social Welfare, Children, Emergencies and Disaster Management Committee.