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PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER NAIROBI
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THE VIHIGA COUNTY EMERGENCY FUND BILL, 2019

A Bill for

AN ACT of the County Assembly of Vihiga to provide for the establishment of an Emergency Fund and for connected purposes

ENACTED by the County Assembly of Vihiga, as follows—

PART I — PRELIMINARY

1 This Act may be cited as the Vihiga County Emergency Fund Act 2019

2 In this Act unless the context otherwise requires—

Appropnahon means funds provided for to pay for the supply of services

County means the County Government of Vihiga,

County Assembly means the County Assembly of Vihiga County

Fund means the County Emergency Fund established under Section 3 of this Act

County Executive Committee Member means the County Executive Committee member responsible for finance matters in the county

financial year means the period of twelve months ending on thirtieth day of June

PART II — ESTABLISHMENT OF THE EMERGENCY FUND

3 (1) There is established a Fund to be known as the Vihiga County Emergency Fund

(2) The Fund shall consist of—

(a) monies appropriated by the County Assembly and

(b) grants and donations made into the Fund

(3) The County Assembly shall in appropriating monies under subsection (2) (a) in each financial year ensure that the monies contained in the Fund shall not exceed 2 per cent of the County's budget
4 The object and purpose of the Fund is to enable payments to be made in respect of a County when an urgent and unforeseen need for expenditure arises for which there is no specific legislative authority.

**PART III — ADMINISTRATION OF THE FUND**

5 (1) The County Executive Committee Member shall be responsible for the general administration of the Fund.

(2) The County Executive Committee Member shall open and maintain a separate account into which all money appropriated to that Fund shall be paid.

6 (1) The County Executive Committee Member may make payments from the Fund only if satisfied that:

(a) there is an urgent and unforeseen need for the expenditure for which there is no legislative authority,

(b) it is for the public interest and

(c) an event has caused damage, loss, hardship or suffering to residents of the County or threatens to damage the environment and the event is limited to the County.

(2) For the purposes of subsection (1):

(a) there is an urgent and unforeseen need for expenditure if in the opinion of the County Executive Committee Member:

(i) payment cannot be delayed until the next financial year without harming the general public interest of the County,

(ii) the payment is necessary to alleviate the damage, loss, hardship or suffering which may be directly caused by the event and

(b) need for expenditure is unforeseen and has not been provided for in an appropriation law made by the County Assembly for the current financial year.

7 The County Executive Committee Member shall not during a financial year make a payment under Section 6 if the payment exceeds two per cent of the total County expenditures.
Government’s revenues as shown in that County’s audited financial statements for the previous financial year except for the first year.

8 All receipts, earnings and accruals to the Fund and the balance of the Fund at the close of the financial year shall be retained by the Fund for the purpose for which it is established.

9 (1) The County Executive Committee Member shall notify the County Assembly in writing within two months after payment is made out of the Fund.

(2) If the County Assembly is not sitting during the period referred to in subsection (1) and the County Executive Committee Member has not sought the approval of the County Assembly before the end of that period, the County Executive Committee Member shall seek the approval of the County Assembly for the payment within fourteen days after it next sits.

(3) As soon as practicable after the County Assembly has approved the payment the County Executive Committee Member shall arrange for an Appropriation Bill to be introduced into the County Assembly for the appropriation of the money paid and for the replenishment of the Fund to the extent of the amount of the payment.

10 (1) Within three months after the end of each financial year the County Treasury shall prepare and submit to the Auditor General a financial statement in respect of the Fund for that year.

(2) The financial statement prepared under subsection (1) shall include the following information—

(a) the date and the amount of each payment
(b) the person to whom the payment was made
(c) the purpose for which the payment was made
(d) whether the person to whom the payment was made spent the money for that purpose and a statement made to that effect
(e) if the person to whom the payment has been made has not spent the money for that purpose a statement specifying the reasons for not having done so and
(f) a statement indicating how the payment conforms to section 6 of this Act, the legislation or the policy of the County relating to disaster management.

11 The County Executive Committee Member may make regulations for the better carrying out of the provisions of this Act.

The need to have regulations is inevitable and hence it must be mandatory. In case finance to make regulations to make simpler effect to this Act.
MEMORANDUM OF OBJECT AND REASONS

The Bill seeks to establish the Vihiga County Emergency Fund to provide payments for unforeseen needs for expenditure which cannot be delayed to the next financial year. It further provides for payments for the need for expenditures to alleviate damage, loss, hardship, or suffering of Vihiga county residents that may be caused by unforeseen events such as drought, fire, flood, storm, or outbreak of disease among others.

The Bill is structured as follows:

Clause 1 provides for the short title of the Act.

Clause 2 provides for the interpretations of terms used in the Bill. This is intended to provide clarity during the implementation of the Act.

Clause 3 establishes the Fund. It provides that the Fund will consist of funds appropriated by the County Assembly. It further provides the minimum moneys the Fund should have in relation to the total budget of the County. The section also provides for the fund to be maintained in a separate bank account.

Clause 4 highlights the purpose of the establishment of the Fund.

Clause 5 provides for the administration of the Fund by the County Executive Committee Member responsible for finance.

Clause 6 sets out the power of the Committee Member in relation to making payments out of the Fund in the case of an emergency.

Clause 7 sets out the limitation to the powers of the County Executive Committee Member to make payments out of the Fund not exceeding two percent of the county's budget.

Clause 8 provides for the retention of the moneys in the Fund at the close of the financial year in the Fund.

Clause 9 compels the County Executive Committee Member to obtain the approval of the County Assembly for the payments made out of the Fund within two months of such payment.

Clause 10 provides for the County Treasury to prepare a financial statement within three months after the end of each financial year. It highlights the information to be contained in the financial statement and requires submission of the statement to the Auditor General.

Clause 11 confers on the County Executive Committee Member the powers to make Regulations under the Act.

The Bill shall occasion additional expenditure to the County that shall be appropriated by the County Assembly.

HENRY M ASAVA
Chairman Budget and Appropriations Committee