

SPECIAL ISSUE

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BUNGOMA COUNTY ACTS, 2017

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**THE BUNGOMA COUNTY PROPERTY HIRE AND
LEASE ACT, 2017**

No. 2 of 2017

Date of Assent: 17th January, 2017

Date of Commencement: See Section 1

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Section

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**THE BUNGOMA COUNTY PROPERTY HIRE AND
LEASE ACT, 2017**

AN ACT of the Bungoma County Assembly to provide for the hiring and leasing of property, items, facilities and services belonging to the County government; for the payment of hiring and leasing charges and for connected purposes

ENACTED by the Bungoma County Assembly, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Bungoma County Property Hire and Lease Act, 2017 and shall come into force sixty days from the date of assent

Short title and commencement

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

Interpretation.

“County government” means the County government of Bungoma;

“County Assembly” means the County Assembly of Bungoma;

“county executive committee member” means the county executive committee member for the time being responsible for the property, item, facility or service the is the subject of hire or lease;

“property” includes equipment, machinery, motor vehicles, land and buildings;

“public amenity” has the meaning assigned thereto in the Bungoma County Public Entertainment and Amenities Act, 2015.

3. The object and purpose of the Act includes—

Object and purpose of Act.

(a) to control the hiring and leasing of County Public properties and services

(b) to encourage the residents of Bungoma County to make use of the available public properties to better their livelihood.

PART II— HIRE AND LEASE PROCEDURE

4. The County government may hire or lease to any person, upon such terms and conditions as may be prescribed—

County to hire or lease its property, etc.

- (a) any of its property;
- (b) open grounds in rural and urban areas;
- (c) any of its equipment or other machinery;
- (d) motor vehicles;
- (e) public amenities;
- (f) labour;
- (g) such other property, item, facility or services as may be prescribed.

5. (1) A person who intends to hire or lease any of the property or other items, facilities or services stipulated in section 3 shall make an application to the relevant county executive committee member in the prescribed form, which shall be accompanied by the prescribed fee and such other information as may be prescribed.

Application to hire or lease.

(2) The county executive committee member shall consider an application submitted under subsection (1), and if he or she determines that it meets the stipulated requirements, shall notify the applicant, in writing not later than seven days from the date the determination, of the availability of the relevant subject matter for hire or lease and shall thereby invite him or her to execute a standard form contract for the hire or lease.

(3) Upon receipt of a notice under subsection (2), an applicant shall, within seven days of the date of receipt referred to in that subsection, or such other period as may be prescribed, execute the contract for the hire or lease of the relevant subject matter.

6. (1) A contract for hire or lease under this Act shall be in writing in the prescribed form and shall be signed by the relevant county executive committee member and the county executive committee member responsible for finance, or by persons duly authorised by them, and the person hiring or leasing.

Form of contract.

(2) A contract for hire or lease under this Act shall contain such terms and conditions as may be prescribed and shall indicate the prescribed rates or fees payable for the hiring or leasing of the relevant subject matter, indicating manner of payment.

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Bungoma County Property Hire and Lease

7. A person hiring or leasing of the County government's property, items, facilities or services shall adhere to the terms and conditions stipulated in the contract for the hiring or leasing of the subject matter.

Usage and adherence to terms and conditions.

8. The duration of hire or lease of property, item, facility or services shall be stipulated in the contract, and may be extended from time to time on such terms and conditions as may be prescribed.

Period of hire or lease.

9. (1) A person hiring or leasing any property under this Act shall keep the property in good condition, and shall not let the property fall in disuse or neglect and, notwithstanding any other provision in the contract, shall be responsible for returning or restoring the subject property to the state it was at the time he or she took possession of the same.

Property to be kept in good condition.

(2) The County Executive Committee Member responsible shall maintain records of hired and leased items and submit the copies of these records to the County Assembly not later than 90 days from the end of each financial year

10. (1) An authorised officer shall conduct regular inspection of the property the subject matter of the hire or lease to ascertain its condition and may require the person hiring or leasing the property to take such reasonable measures as are necessary to restore the property to its usual state or ameliorate any condition likely to cause damage or harm to the property or its depreciation in value.

Periodic inspection.

(2) For purposes of inspection under subsection (1), a person having possession of the property referred to in that subsection shall allow unrestricted access to the property, to the authorised officer undertaking the inspection.

11. (1) A person who hires or leases any property or item, facility or service from the County government shall not sub-lease or sub-let that property or item, facility or service without the approval of the relevant county executive committee member.

Subleasing or subletting.

(2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding two hundred thousand shillings, or imprisonment for a term not exceeding two years, or both.

12. The leasing or hiring of any of property or other item or facility by the County government to any person shall not transfer to that person the title to that property or other item or facility.

Hiring or leasing not to transfer title.

13. For the avoidance of doubt, ownership or possession to any property hired or leased under this Act shall not accrue by adverse possession to the person hiring or leasing the property in question.

No adverse possession of any property.

14. The County government may initiate recovery proceedings against any person who fails or refuses to pay the prescribed fee or charge in respect of any property, item, facility or services hired or leased from the County government.

Recovery proceedings.

PART III—OFFENCES AND PENALTIES

15. (1) A person who—

Offences.

- (a) causes any wilful damage to any property or item or facility hired or leased from the County government;
- (b) fails or refuses to return any property or item or facility to the county government upon termination or expiry of a contract for hire or lease commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or imprisonment for a term not exceeding three years, or both.

(2) Notwithstanding subsection (1), or any other provision in the contract of hire or lease, the County government may institute civil proceedings against a person convicted under subsection (1) for the recovery of property or item or facility hired or leased to that person by the County government.

PART IV—MISCELLANIOUS PROVISIONS

16. The fees and charges payable pursuant to the provisions of this Act including any additional fees and charges for the non-payment or late payment of such fees and charges shall be determined each year by the County Assembly in the County Finance Act.

County Assembly to determine fees and charges.

17. The county Executive committee may make regulations generally for the better Carrying into effect the provisions of this Act with the approval of the County Assembly.

Regulation