

(Legislative Supplement No. 1)

LEGAL NOTICE NO. 1

THE PUBLIC FINANCE MANAGEMENT ACT

(NO. 18 of 2012)

HOMA BAY COUNTY ASSEMBLY (MORTGAGE SCHEME) REGULATIONS,
2016

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THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by Section 116 (1) of the Public Finance Management Act, 2012 the County Executive Officer for Finance makes the following Regulations—

THE HOMA BAY COUNTY ASSEMBLY (MORTGAGE SCHEME FUND) REGULATIONS, 2016

PART I – PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Homa Bay County Assembly (Mortgage Scheme Fund) Regulations, 2016. Citation

2. In these Regulations, unless the context otherwise requires— Interpretation

‘Act’ means the Public Finance Management Act of 2012;

‘borrower’ means a person in receipt of a loan out of the Fund;

‘Board’ means the Homa Bay County Assembly Service Board established under Article 177 of the Constitution of Kenya 2010 and Section 12 of the County Government Act, 2012;

‘Committee’ means the Loans Management Committee established under regulations 6;

‘County Assembly’ means the County Assembly of Homa Bay;

‘Financial Year’ means the twelve months ending on the 30th of June each year;

‘Fund’ means the Homa Bay County Assembly Mortgage Scheme Fund established under regulation 3 of these regulations;

‘Members of the Scheme’ means an employee of the Homa Bay County Assembly Service who is employed on permanent and pensionable terms; and the Members of the County Assembly pursuant to Article 177 of the Constitution;

‘Officer Administering the Fund’ means the Clerk of the County Assembly;

‘Property’ means a residential house purchased through a loan from the Fund and includes the land purchased under loan from the Fund on which such house is to be developed

‘Valuer’ means a person registered as a valuer under the Valuers Act

PART II – ESTABLISHMENT OF THE FUND

3. There is hereby established a fund to be known as the Homa Bay County Assembly Mortgage Scheme Fund. Establishment of the Fund

4. The object and purpose of the fund shall be to provide a loan scheme for the purchase, development, renovation or repair of Object and Purpose the Fund

residential property by member of the scheme.

5. (1) The initial capital of the fund shall consist of the monies standing to the credit of the fund on the date of the coming into operation of these regulations as appropriated in the County Assembly Budget

Capital of the Fund

(2) The County Assembly may appropriate additional monies to the fund through a supplementary budget

PART III – LOANS MANAGEMENT COMMITTEE AND THE ADMINISTRATION OF THE FUND

6. (1) There is established a committee to be known as the Loans Management Committee which shall consists of seven (7) members appointed by the County Assembly.

Loans Management
Committee

(2) The Committee shall comprise of—

- (a) a Chairperson elected in the first committee meeting
- (b) a Vice-chairperson elected in the first committee meeting
- (c) five (5) other Members of the County Assembly
- (d) the Clerk of the County Assembly
- (e) three (3) members of Staff appointed by the members of staff

(3) The meetings of the Committee shall be convened by the Chairperson or the Vice-chairperson in the absence of the Chairperson or by a member designated by the Chairperson and shall be convened at such times as may be necessary for the discharge of the Committee's functions.

(4) The quorum for the meeting of the Committee shall be the Chairperson and any four other members.

(5) The committee shall administer the fund and shall—

- (a) process application for loans in accordance with the existing terms and conditions of borrowing;
- (b) supervise the day to day running of the Fund.
- (c) open and maintain an account in a recognized commercial bank for the purpose of administering the fund.

(6) The signatories of the County Assembly shall be the signatories to this account.

7. (1) The officer administering the fund shall—

Administration of
the fund

- (a) supervise and control the administration of the fund;
- (b) utilize the interest accruing thereto to defray operating expenses, and may advise on any reasonable restriction or other requirements concerning such use;
- (c) ensure that all earnings of, or accruals to the fund are

retained in the fund;

- (d) ensure that money held in the fund, including earnings and accruals referred to in paragraph (c) is spent only for the purposes for which the fund is established;
- (e) cause to be kept books of accounts and other books and records in relation to the fund and for all loans financed from the fund;
- (f) ensure that the accounts for the fund and annual financial statements relating to the accounts comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time;
- (g) prepare, sign and transmit to the Auditor-General in respect of each financial year and within three (3) months after the end of the financial year, a statement of accounts relating to the fund, prepared and signed by him/her specifying the income of the fund, in such details as the County Assembly Service Board may as from time to time direct in accordance with the Public Finance Management Act, 2012;
- (h) present the financial statements to the County Assembly;
- (i) furnish such additional information as he/she may deem to be proper and sufficient for the purpose of examination and audit by the Auditor-General
- (j) designate and appoint such staff as may be necessary to assist him in the administration of the fund and may require such staff to carry out such inspections as may be necessary to verify any information submitted under these regulations.

(2) Every statement of account prepared under this regulation shall include details of balances between the assets and liabilities of the fund and shall indicate the financial status of the fund at the end of the financial year concerned.

PART IV — APPLICATION AND DISBURSEMENT OF LOANS

8. (1) A member of the scheme who wishes to apply for a loan from the fund shall make such application to the officer administering the fund.

Utilization of the
loan monies

(2) A loan obtained under the regulations shall be used for the purchase, development, renovation or repair of the residential property for the occupation of the applicant and his/ her immediate family.

(3) A loan for the development of residential property may be granted at the discretion of the committee—

- (a) to a member of the scheme who is in possession of a title deed to land on which the development is intended to be carried out; or

- (b) in two installments, for the purchase of the land at which the residential property is to be developed and for the subsequent development of the property.
- (c) based on availability of the funds, a member can be allowed one hundred percent (100%) financing for development.

(4) The amount of the first instalment granted for the purchase of land under paragraph (b) shall not exceed forty percent (40%) of the maximum loan for which the member of the scheme is eligible.

9. (1) A loan granted for the development of a residential property under this regulations shall be released to the applicant in the following phases—

Disbursement of loans for development

- (a) the first disbursement based on the value of the land on which the residential property is proposed is to be developed; and
- (b) based on the availability of funds a member can be allowed 100% financing for the development.

10. (1) An application for loan under these regulations shall be accompanied by the following documents where appropriate—

Application for loans

- (a) copies of design of the proposed residential property duly approved by the County Government within whose area it is to be situated.
- (b) bills of quantities in respect of the proposed development, renovation or repair;
- (c) an official search of the title to the property intended to be purchased;
- (d) a certified copy of the sale agreement relating to the property.

(2) The applicant shall bear the cost of stamp duty fees and other legal fees.

(3) Where the borrower fails to comply with the requirements of paragraph (2) within the stipulated time, the officer administering the fund shall, upon giving the borrower fourteen days' notice, deduct the amount due from the salary of that borrower in such instalments as may be appropriate and remit such deductions to meet such costs as may be due.

(4) All legal transactions in respect of property being purchased shall be conducted by an advocate appointed by the Board.

11. Where the property intended to be purchased through a loan from the fund is leasehold property, such loan shall be granted where the expiry date of such lease is at least forty five (45) years beyond the final loan repayment date.

Leasehold Property

12. (1) The maximum loan entitlement for a member of the Scheme in respect of the designation or job group scale specified in the

Maximum Loan Disbursement

first column of the first and second Schedule shall not exceed the respective amount set out in the second column of the first and second schedule.

(2) For a member of the scheme to qualify for a loan, such a member shall be required to be—

- (a) confirmed in appointment or;
- (b) on a five year contract with the Homa Bay County Assembly Service Board with the relevant documentation duly completed; or
- (c) be elected or nominated as the case may be in accordance with the law as a member of the County Assembly.

(3) A loan granted to a barrower under this regulations shall be funded at the rate of—

- (a) one hundred per centum of such value where the property, where such property is situated in Homa Bay County; and
- (b) one hundred per centum of such value where the property is situated in any other area

PART V — REPAYMENT AND INTEREST RATES

13. A loan granted under these regulations shall be payable within a period of twenty (20) years.

Repayment of Loan

14. (1) The interest chargeable on a loan shall be three per centum (3%) per annum on a monthly reducing balance and this rate may be reviewed from time to time by the Board upon recommendation Salaries and Remuneration Commission.

Interest on loans

15. (1) The Board shall have a charge registered on the property financed through a loan granted under these regulations and shall be entitled to have its name entered in all documents of title for such property.

Lien

(2) The borrower shall—

- (a) not mortgage, charge, surrender the lease or sell or agree to sell or part with possession of the charged property or any part thereof without the prior written consent of the Board.
- (b) meet and pay all rates, rents, insurance and any other outgoings in respect of the property and send the proof of such payments to the Board; and
- (c) provide transfer deed duly signed by the borrower and a letter authorizing the Board to sell the property in case of default in payment.

(3) All residential properties purchased through the Fund shall be constructed of such material as may be accepted to the Board upon consultation with county works officer.

(4) During the loan repayment period the borrower shall—

- (a) ensure that the property is used for residential purpose only;
- (b) maintain the property in a satisfactory state of repair; and
- (c) not alter or make any structural alteration to the property, carry out any valuation, assessment or investigation relating to the property or title thereto, as the case may be, without the approval of the Board.

(5) No borrower shall be eligible for more than one loan at a time or more than a total of two loans from the Fund.

(6) All legal documentation and disbursement of the funds shall be supervised by the officer administering the fund.

16. A borrower shall take out and maintain a mortgage protection policy and fire policy with an insurance firm approved by the Board, the cost of which shall be paid out of the fund and debited in such borrower's account.

Mortgage Insurance

17. The Board may call in a loan and in default sell the charged property by public auction or private treaty where the borrower is in breach of the terms under the loans agreement or the covenant contained in the charge of the mortgage instrument.

Default in Repayment

PART V — MISCELLANEOUS PROVISIONS

18. These Regulations shall be supplemented by such terms as may from time to time, be detailed in the application form supplied by the Board and in the contract between the mortgagor and the Board.

Supplementary terms.

19. The Board shall issue guidelines subject to these regulations on—

Guidelines by the Board

- (a) the purchase and development of land and residential properties under these regulations
- (b) the utilization of surplus funds for the purchase and development of land and residential property under these Regulations; and
- (c) such other matters as may be necessary for the proper management and administration of the Fund.

20. A person who immediately prior to the commencement of these Regulations was servicing a loan obtained under the regulations shall be entitled to enhance the principal amount of the loan to the respective amount provided for in the First Schedule.

Enhancing principal amount

FIRST SCHEDULE

MORTGAGE FOR MEMEBERS OF COUNTY ASSEMBLY

FIRST SCHEDULE

BENEFICIARIES	MORTGAGE AMOUNT
Members of County Assembly	Up to Kshs. 3 Million

SECOND SCHEDULE

MORTGAGE AMOUNT FOR MEMBERS OF STAFF

BENEFICIARIES	MORTGAGE SCHEME
Civil Service Group 12, 13, 14 and Equivalent Groups in Public Service	Up to Kshs. 20 Million
Civil Service Group 9, 10, 11 and Equivalent Groups in Public Service	Up to Kshs. 15 Million
Civil Service Group 4, 5, 6, 7, 8 and Equivalent Groups in Public Service	Up to Kshs. 10 Million

Dated the 27th July, 2015.

N.O. K'ORIKO,
County Executive Committee Member
Finance and Economic Planning.

LEGAL NOTICE NO. 2

THE PUBLIC FINANCE MANAGEMENT ACT

(NO. 18 of 2012)

HOMA BAY COUNTY ASSEMBLY (CAR LOANS SCHEME FUND)
REGULATIONS, 2016

ARRANGEMENT OF REGULATIONS

PART I—PRELIMINARY PROVISIONS

1—Citation

2—Interpretation

PART II— ESTABLISHMENT OF THE FUND

3—Establishment of the Fund

4—Object and Purpose of this Fund

5—Capital of the fund.

PART III – LOANS MANAGEMENT COMMITTEE AND THE ADMINISTRATION
OF THE FUND

6—Loans Management Committee

7—Administration of the Fund

PART IV – LOANS APPLICATION AND DISBURSMENT

8—Loan Application

9—Conditions for disbursement of loans

10—Temporary Release of Log-book

11—Loan Amount

12—Interest Rate

13—Repayment Period

14—Insurance

15—Loan Discharge

FIRST SCHEDULE CAR LOANS

THE PUBLIC FINANCE MANAGEMENT ACT
(No. 18 of 2012)

IN EXERCISE of the powers conferred by Section 116 (1) of the Public Finance Management Act, 2012 the County Executive Officer for Finance makes the following Regulations –

THE HOMA BAY COUNTY ASSEMBLY (CAR LOANS (STAFF AND MEMBERS) SCHEME FUND)) REGULATIONS, 2016

PART I – PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Homa Bay County Assembly (Car Loans Scheme Fund) Regulations, 2016 and shall retrospectively come into operation on the first date of disbursements.

Citation and Commencement

2. In these Regulations, unless the context otherwise requires – ‘Act’ means the Public Finance Management Act of 2012;

Interpretation

‘Board’ means the Homa Bay County Assembly Service Board established under Article 177 of the Constitution of Kenya 2010 and Section 12 of the County Government Act 2012;

‘Committee’ means the Loans Management Committee established under regulations 6;

‘County Assembly’ means the County Assembly of Homa Bay;

‘Financial Year’ means the twelve months ending on the 30th of June each year;

‘Fund’ means the Homa Bay County Assembly Car Loans Scheme Fund established under regulation 3 of these regulations;

‘Members of the Scheme’ means an employee of the Homa Bay County Assembly Service who is employed on permanent and pensionable terms; and the Members of the County Assembly pursuant to Article 177 of the Constitution;

‘Officer Administering the Fund’ means the Clerk of the County Assembly;

‘Valuer’ means a person registered under the Valuer Act;

PART II – ESTABLISHMENT OF THE FUND

3. There is established a fund under the Homa Bay County Assembly Service Board to be known as the Homa Bay County Assembly Car Loans Scheme Fund.

Establishment of the Fund

4. The object and purpose of the fund shall be to provide a loan scheme for the purchase of motor vehicle by members of the scheme.

Object and Purpose of this Fund.

5.(1) The initial capital of the fund shall consist of the monies standing to the credit of the Fund on the date of the coming into operation of these regulations.

Capital of the Fund.

(2) The County Assembly may appropriate additional monies to the fund through its annual budget.

(3) The fund shall be administered as a special account and shall

be operated by the officer administering the fund.

(4) The Interest accruing to the fund shall, where such interest constitutes a surplus after meeting the requirements of regulation 12(2) be credited to the capital of the fund

**PART III – LOANS MANAGEMENT COMMITTEE AND THE
ADMINISTRATION OF THE FUND**

6.(1) There is established a committee to be known as the Loans Management Committee which shall consists of eight (8) members appointed by the County Assembly.

Loans Management
Committee

(2) The committee shall comprise of;

- (a) a Chairperson elected in the first committee meeting;
- (b) a Vice-chairperson elected in the first committee meeting;
- (c) six (6) other Members of the County Assembly;
- (d) the Clerk of the County Assembly who shall be an ex-officio member; and
- (e) three (3) members of Staff appointed by the members of Staff

(3) The meetings of the Committee shall be convened by the Chairperson or the Vice-chairperson in the absence of the Chairperson or by a member designated by the Chairperson and shall be convened at such times as may be necessary for the discharge of the Committee's functions.

(4) The quorum for the meeting of the committee shall be the Chairperson and any four members.

(5) The Committee shall—

- (a) consider and may approve the loan applications presented by the officer administering the fund.
- (b) open and maintain an account in a recognized commercial bank to administer the fund

(6) The signatories of the County Assembly shall be the signatories to this account

7.(1) The officer administering the fund shall—

- (a) supervise and control the administration of the fund;
- (b) utilize the interest accruing thereto to defray operating expenses, and may advise on any reasonable restriction or other requirements concerning such use;
- (c) ensure that all earnings of, or accruals to the fund are retained in the fund;
- (d) ensure that money held in the fund, including earnings and accruals referred to in paragraph (c) is spent only for the

Administration of
the Fund

purposes for which the fund is established;

- (e) cause to be kept books of accounts and other books and records in relation to the fund and for all loans financed from the Fund;
- (f) ensure that the accounts for the fund and annual financial statements relating to the accounts comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time;
- (g) prepare, sign and transmit to the Auditor-General in respect of each financial year and within three (3) months after the end of the financial year, a statement of accounts relating to the fund, prepared and signed by him/her specifying the income of the fund;
- (h) present the financial statements to the County Assembly;
- (i) furnish such additional information as he/she may deem to be proper and sufficient for the purpose of examination and audit by the Auditor-General
- (j) designate and appoint such staff as may be necessary to assist him/her in the administration of the fund and may require such staff to carry out such inspections as may be necessary to verify any information submitted under these Regulations.

(2) Every statement of account prepared under this regulation shall include details of balances between the assets and liabilities of the fund and shall indicate the financial status of the fund at the end of the financial year concerned.

PART III—LOAN APPLICATION AND DISBURSMENTS

8.(1) A member of the scheme who wishes to apply for a loan from the fund shall present to the Officer administering the fund a duly completed loans form in such form as may be prescribed by the Loans Management Committee.

Loan Application

(2) The officer administering the fund shall satisfy himself/herself of the applicant's financial status and capacity to repay the loan applied for and where so satisfied shall forward the application to the committee for consideration.

(3) If the committee approves the application, the applicant shall enter into a loan repayment agreement in such form as the committee prescribed

9.(1) A loan approved under regulation 8 shall be released from the fund in such a manner, taking into account the security of the fund, as may be prescribed by the committee.

Conditions for disbursement of loans

(2) The log-book of a vehicle subject to a loan from the fund shall be issued jointly between the County Assembly Service Board and the member of the Scheme and shall be kept in the custody of the officer administering the fund until the loan is repaid in full by the

member of the scheme

10. (1) A log-book kept in the custody of the officer administering the fund may be temporarily released to a member of the scheme upon the application in writing to the officer administering the fund for purposes of renewal by that member of the necessary licenses.

Temporary release of log-book

(2) A log-book released under paragraph (1) shall be returned to the Officer Administering the Fund within twenty one (21) working days of such release.

(3) The officer administering the fund shall acknowledge receipt of the log-book in writing.

11. (1) The maximum loan entitlement for a member of the Scheme in respect of the designation or job group scale specified in the first column of the first and second schedule shall not exceed the respective amount set out in the second column of the first and second schedule.

Loan Amounts

(2) For the purposes of these regulations, the value of a new vehicle shall be as quoted on the invoice from the supplier whereas the value of a vehicle shall be as determined by a report of a registered valuer.

(3) Notwithstanding the provisions of paragraph (1), there may be advanced from the fund to a member an additional amount an additional loan not exceeding ten per cent of the value of the vehicle purchased by the member of the scheme to cater for an overhaul of the engine of the vehicle.

(4) No member of the scheme shall receive a loan the repayment of which shall result in salary deductions exceeding thirty per cent for the monthly emolument for the member of the Scheme.

12. (1) A loan granted to a member of the scheme shall earn an interest rate of three per cent per annum on a reducing balance and this rate may be reviewed from time to time by the Board upon recommendation of the Salaries and Remuneration Commission.

Interest rate

(2) The interest charged under paragraph (1) shall be used to defray the administrative expenses of the fund.

13. A loan advanced under these regulations shall be repaid in full over a maximum period of five (5) years

Repayment period

14. (1) A member of the scheme shall comprehensively insure any vehicle purchased through the fund.

Insurance

(2) Where a member of the scheme is unable to raise the funds required for the initial insurance premium, such funds may be advanced from the fund subject to approved limit, but subsequent premium shall be paid by the member of the Scheme.

(3) A member of the scheme who is unable to pay the subsequent annual premiums referred to in paragraph (2) may apply to the fund for a loan which shall be repaid within a period of one (1) year.

15. (1) Upon full repayment of the loan, a signed loan discharge Certificate in such form as may be prescribed by the Committee shall be forwarded to the Registrar of Motor Vehicles. Loan Discharge

(2) The loan discharge certificate shall release the member of the Scheme from any further financial obligation in respect of the loan and shall act as sufficient authority to remove the caveat on the vehicle.

FIRST SCHEDULE

CAR LOAN AMOUNTS FOR MEMBERS OF COUNTY ASSEMBLY

BENEFICIARIES	CAR LOANS
Members of County Assembly	Up to Kshs 2 Million

SECOND SCHEDULE

CAR LOANS AMOUNTS FOR MEMBERS OF STAFF

BENEFICIARIES	CAR LOAN
Civil Service Group 12, 13, 14 and Equivalent Groups in Public Service	Up to Kshs. 4 Million
Civil Service Group 9, 10, 11 and Equivalent Groups in Public Service	Up to Kshs. 3 Million
Civil Service Group 4, 5, 6, 7, 8 and Equivalent Groups in Public Service	Up to Kshs. 1.5 Million

Dated the 27th July, 2015.

N.O. K'ORIKO,
County Executive Committee Member
Finance and Economic Planning.