

SPECIAL ISSUE

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REPUBLIC OF KENYA ———

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HOMA BAY COUNTY BILLS, 2024

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SCHEDULE

**PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF
COMMITTEE**

Homa Bay County Enterprise Development and Affirmative Action Fund Bill, 2024
**HOMA BAY COUNTY ENTERPRISE DEVELOPMENT AND AFFIRMATIVE ACTION
FUND BILL, 2024**

A Bill for

AN ACT of the County Assembly of Homa Bay to provide for the establishment of the County Enterprise Development and Affirmative Action Fund, disbursement of funds as loans and grants for the promotion of enterprise development and for connected purposes.

ENACTED by the County Assembly of Homa Bay County Assembly as follows-

PART I – PRELIMINARY

- Short Title 1. This Act may be cited as Homa Bay County Enterprise Development and Affirmative Action Fund Act, 2024, and will come into operation upon publication in the *Kenya Gazette*.
- Interpretations 2. In this Act unless the context otherwise requires;
- “Act” means this Act;
- “Applicant” means a group or registered business enterprise operating in Homa Bay county who has made a request for funding;
- “Business Enterprise” has the same meaning assigned to it under section 2 of the Micro and Small Enterprises Act, 2012;
- “County” means Homa Bay County;
- “County Assembly” means County Assembly of Homa Bay;
- “County Committee” means Homa Bay County Enterprise Development Fund Committee;
- “County Executive Committee Member” means the County Executive Committee Member responsible for enterprise development in the County;
- “County public officer” means any person appointed by the county government and holding or acting in any county public office, or on contractual or permanent terms but does not include a person engaged on a part-time basis in a county

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public body paid at an hourly or daily rate;

“Eligible applicant” means a group or enterprise that has met the prescribed requirements for a loan or a grant;

“Financial Year” means the period ending on 30th June ;

“Fund” means the Homa Bay County Enterprise Development and Affirmative Action Fund;

“Governor” means the Governor of Homa Bay County;

“Grant” means money to disbursed to a successful applicant to undertake a predetermined purpose upon term and conditions set out in the grant agreement;

“Grant agreement” is a contract between the County Government setting out the terms and conditions for disbursement of grant;

“Group” means a self-help group with a common interest or whose aim is to organize itself to work together or act together to achieve a particular business or economic objective and is registered by the relevant public institution;

“Salaries and Remuneration Commission” means the Salaries and Remuneration Commission established under Article 230(1) of the Constitution;

“Ward” means an electoral unit within a constituency delimited in accordance with Article 89 of the Constitution; and

“Ward Committee” means Ward Committees established at section 13 of the Act.

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Objects and
Purpose of Act

3. The objects and purpose of this Act shall be to: -
 - (a) establish a legal framework for the application, review and disbursements of grants to eligible applicants;
 - (b) establish a framework for County Government to contract a bank and/or financial institution to manage a loan scheme for the benefit of target groups under this Act;
 - (c) promote value addition for locally produced goods;
 - (d) expand access to financing and capital for business growth;
 - (e) create employment, stimulate income generation and earnings

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for the residents of the County;

- (f) support, revive, and initiate micro and small-scale enterprises in sectors with direct impact on household incomes;
- (g) attract and facilitate investments in micro, small, and medium enterprises for the benefit of youths, women, persons with disabilities, and marginalized groups;
- (h) provide a framework for County Government to support organized groups including but not limited to cooperative societies, farmer groups, youth groups, women groups and marginalized groups;
- (i) foster entrepreneurship, encourage the creation and long term sustainability of micro, small, and medium enterprises;
- (j) provide entrepreneurship training and business incubation; and
- (k) provide generally for establishment, administration, management, and winding up of the Fund.

Guiding
Principles of Act

4. The guiding principles of the Act are: -

- (a). To ensure inclusion of all residents of the County particularly women, youths, persons with disabilities, and the marginalized to enable them to actively participate in the economic growth and development of the County.
- (b). To guarantee accessibility to, and accountability for, funds at the lowest level of engagement and for the largest category of recipients using a simple, structured least-cost approach.
- (c). The prioritization of economic activities for preferential financing in line with the County Integrated Development Plan.
- (d). To facilitate enterprise to undertake registration principally as cooperative societies and/or enterprise organizations with relevant public institutions and organize such enterprises as viable businesses.
- (e). To streamline constitutional principles of public finance of prudence, fiscal responsibility, equity and accountability, in the management and operations of the Fund.

PART II - ESTABLISHMENT AND ADMINISTRATION OF FUND

- Establishment of Fund 5. (1) There is established a fund known as the Homa Bay County Enterprise Development and Affirmative Action Fund.
- (2) The sources of funds for the Fund shall include:-
- (a) monies appropriated by the County Assembly;
 - (b) grants, gifts, donations, or other contributions;
 - (c) monies that may vest in or accrue to the Fund in the course of the exercise or performance of the functions under this Act;
 - (d) such monies from the national government as funds to assist micro, small and medium enterprises; and
 - (e) monies from other lawful sources accruing to the Fund.
- Fund account No.18 of 2012 6. (1) All monies received by the Fund shall be maintained in a separate bank account in the name of the Fund, opened and administered in accordance with the provisions of the Public Finance Management Act.
- (2) The receipts, earnings, and accruals to the Fund and the balance of the Fund at the close of each year shall be retained by the Fund for the purposes for which the Fund is established.
- (3) The signatories of the Fund's bank account shall be—
- (a) the chief officer for the time being responsible for enterprise development who shall be a mandatory signatory;
 - (b) the fund administrator; and
 - (c) a person designated by the County Executive Committee Member for the time being responsible for finance.
- Utilization of Fund 7. (1) The Fund shall be used for supporting micro, small and medium enterprises—
- (a) Providing loans.
 - (b) Providing grants.
 - (c) Providing training, capacity building and skill development related to enterprise and business development.

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(d) Facilitating appropriate technology acquisition, adoption, and utilization.

(2) Provided that not more than three per cent of the total monies consisting of the Fund shall be utilized for fund administration.

Administration of Fund 8. (1) The County Executive Committee Member responsible for finance shall designate the County Director responsible for enterprise development or such other suitable County officer to administer the Fund.

(2) The fund administrator designated under subsection (1) above shall be the accounting officer of the Fund.

Responsibility of the fund administrator 9. The fund administrator shall—

(1) Ensure that the Fund keeps financial and accounting records that comply with the Public Finance Management Act.

No. 18 of 2012

(2) Ensure that all financial and accounting records that the Fund keeps in any form including in electronic form are adequately protected and backed up.

(3) Ensure that all applicable accounting procedures are followed when acquiring or disposing of goods and services and that, in the case of goods, adequate arrangements are made for their safe custody, safeguarding, and maintenance.

(4) Bring a matter to the attention of the County Executive Committee Member responsible for finance if, in the fund administrator's opinion a decision or policy or proposed decision or policy of the Fund may result in resources being used in a way that is contrary to the provisions of this Act.

(5) Submit the estimates of the Fund to the County Executive Committee Member for review and onward transmission to the County Executive Committee Member responsible for finance.

(6) Not later than three (3) months after the end of each financial year, prepare annual financial statements for that financial year and submit them to County Executive Committee Member for review and onward transmission to the County Executive Committee Member responsible for finance.

(7) Manage the assets of the Fund to ensure that it receives value for money when acquiring, using, or disposing of its assets.

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- (8) Dispose of assets at the most competitive price and at the lowest possible cost ensuring that the proceeds from all asset disposals are deposited in the bank account of the Fund.
- (9) Ensure that the Fund has adequate systems and processes in place to plan for, procure, account for, maintain, store, and dispose of assets, including a current and accurate asset register.
- (10) Provide the County Treasury with any information it requires to fulfill its functions under this Act.
- (11) Provide information on any frauds, losses, or any violations of the law and provide explanations for actions taken to prevent such occurrences in the future.
- (12) Carry out such other responsibilities as may be specified in regulations by the County Executive Committee Member responsible for matters of finance.

Establishment of
County Enterprise
Development and
Affirmative
Action Fund
Committee

10. (1) There is established the Homa Bay County Enterprise Development and Affirmative Action Fund Committee.
- (2) The County Committee shall consist of: -
 - (a) the County Executive Committee Member who shall be the chairperson;
 - (b) the Chief Officer responsible for finance in the County or an appointed representative;
 - (c) the Chief Officer responsible for enterprise development in the County or an appointed representative;
 - (d) the Chief Officer responsible for cooperative development in the County or an appointed representative;
 - (e) one person representing persons with disability, nominated by the joint forum of micro, small and medium enterprises for persons with disability;
 - (f) one person representing the youth, nominated by the joint forum of micro, small and medium enterprises for youths;
 - (g) one person representing the women, nominated by the joint forum of micro, small and medium enterprises for women;

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- (h) two persons, being one man and one woman, representing micro, small and medium enterprises traders' organizations, nominated by the joint forum of micro, small and medium enterprises for traders' organizations; and
 - (i) the Fund Administrator who shall be the secretary and an *ex officio* member.
- (3) The committee members under subsection (2) (e) to (h) shall be appointed by the Governor.
- (4) In making appointments under subsection (3) the Governor shall ensure that no more than two-thirds of the members of the Committee are of the same gender.
- (5) Members shall elect one of the members as the vice chairperson.
- (6) The chairperson and the vice-chairperson shall be of the opposite gender.

Functions of
County
Committee

11. The County Committee shall: -
- (a). propose formula for division of funds as loans and/or grants in every financial year for review and determination by the County Executive Committee;
 - (b). develop guidelines for the award and disbursement of loans;
 - (c). appoint and retain a bank and/or financial institution, with the approval of the County Executive Committee Member responsible for finance, to manage the loan portfolio envisaged in this Act;
 - (d). set the minimum conditions and guidelines for the issuance of loans by the contracted bank and/or financial institution;
 - (e). give quarterly reports to the County Executive Committee Member responsible for finance on the status of loans advanced and managed by contracted bank and/or financial institution;
 - (f). develop guidelines for the award of grants including but not limited to prioritization of groups, amounts to be granted to groups, role of Ward Committees in the application process and such other matters as the Committee deems necessary;
 - (g). maintain minutes of its meetings and maintain proper records of its affairs and books of accounts;
 - (h). regularly submit returns and reports of its operations to the County Executive Committee through the Chairperson;

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- (i). carry out monitoring of recipients of grants to ensure the terms set out in the grant agreement are adhered to;
- (j). partner with other interested agencies and partners for the purpose of performing the functions and achieving its objects under this Act;
- (k). ensure that the money held in the Fund, including any earnings or accruals, is spent only for the purposes for which the Fund is established; and
- (l). perform and exercise all other functions and powers conferred on the County Committee by this Act.

Establishment of 12. (1) There is established a Ward Committee for each ward in the County.
Ward Committees

- (2) The Ward Committee shall comprise of—
 - a) a chairperson elected in accordance with subsection (5);
 - b) one person representing persons with disability, nominated by the ward joint forum of micro, small and medium enterprise organizations of persons with disability;
 - c) one person representing the youth, nominated by the ward joint forum of micro, small and medium enterprises youth organizations;
 - d) one person representing the women, nominated by the ward joint forum of micro and small enterprises women organizations;
 - e) two persons, being one man and one woman, representing micro, small and medium enterprises traders' organizations, nominated by the joint ward forum of micro, small and medium enterprises traders' organizations; and
 - f) the Ward Administrator who shall be the Secretary of the Committee and an *ex officio* member.
- (3) The Ward Committee members under subsection (2) (b), (c), (d), and (e) shall be appointed by the County Executive Committee Member upon approval by the County Executive Committee.
- (4) In making appointments under subsection (3) the County Executive Committee Member shall ensure that no more than two-thirds of the members of the Committee are of the same gender.
- (5) The Ward Committee members shall elect the chairperson from amongst themselves.

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- (6) In the performance of its functions, the Ward Committee shall determine their own procedures.

Functions of Ward 13. The functions of the Ward Committee shall include: -
Committees

- (a). receive and review applications for grants from eligible applicants in respective Wards;
- (b). transmit the decision of the Committee to County Committee for vetting, review and final determination;
- (c). prepare reports pertaining to the Fund and submit them to the County Committee as and when required;
- (d). maintain necessary and adequate books of records relating to the services and activities of the Fund at the Ward;
- (e). monitoring, evaluating, and preparing a report on the performance of grant funded enterprises within the Ward;
- (f). carry out sensitizations about the Fund;
- (g). carrying out such other roles as are necessary for the implementation of the object and purpose of this Act; and
- (h). perform such other functions as may be assigned by the County Committee.

Terms of Service 14. (1) Persons appointed to the committees established by this Act other than those holding public office shall hold office for a term of three years renewable once.

- (2) Members of committees established under this Act may be entitled to allowances as determined by the Salary Remuneration Commission.

Annual Report 15. (1) The County Committee shall prepare an annual report which shall be submitted to the County Executive Committee and thereafter transmitted to the County Assembly for consideration.

- (2) The report shall provide among others for—

- (a) performance of the Fund against the set targets;
- (b) types of businesses or enterprises funded under this Act;
- (c) types of organized groups that have received grants from the Fund;

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- (d) the number of beneficiaries disaggregated in accordance to gender and Ward;
- (e) challenges faced in the implementation of this Act and mitigation measures taken;
- (f) the success rate of businesses or enterprises funded under this Act; and
- (g) any other relevant matter.

PART III: ACCESS AND UTILIZATION OF THE FUND

- Facilities 16. (1) It is provided that funds shall be advanced to eligible applicants as loans or grants upon such terms as set in this Act.
- (2) It is further provided that loans advanced to eligible applicants pursuant to this Act shall be in accordance with regulations and/or guidelines developed by the County Executive Committee Member to this effect, and shall be contracted out to a bank and/or financial institution, to be approved by the County Executive Committee.
- Grant 17. The Fund may advance a grant to an eligible applicant upon such terms as may be set out in a grant agreement, including, at a minimum, amount of grant, purpose of grant, how a group will apply the grant to an enterprise, purpose of the grant and an undertaking by group that the funds will be accounted for, penalty for not adhering to terms of the grant agreement, and such other relevant matters.
- Terms of Grant 18. (1) The County Committee may consider a special category of applicants who otherwise do not meet the criteria and conditions for award of a grant.
- (2) An applicant under subsection (1) may be awarded a grant to support, revive, and initiate micro, small and medium enterprises in sectors that will have an immediate impact on household incomes.
- (3) The County Committee shall carry out regular monitoring of all grant recipients to ensure that terms set out in grant agreement are adhered to.
- (4) The County Committee shall ensure that funds disbursed under Sub-Section (1) are utilized strictly in accordance with the grant agreement.
- Eligibility criteria for Grant 19. (1) An applicant shall qualify for a grant if the applicant: -
- (a) is registered as a cooperative society and operating within Homa Bay County;

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- (b) has members made up of youth, women, persons with disability or other marginalized groups;
 - (c) is operating as a licensed micro, small or medium enterprise or intending to start operating a business as a micro, small or medium enterprise;
 - (d) operates a table banking structure or any such other group with a structure where members make monthly contributions according to the groups' internal guidelines;
 - (e) holds a bank account in the name of the group; and
 - (f) meets such other conditions as may be prescribed by the County Executive Committee Member or the County Committee.
- (2) Notwithstanding subsection (1), a group may be eligible for accessing a loan or a grant if it is made up of members considered as marginalized and operates a micro, small or medium enterprise.

Loans

20. The Committee shall set aside an amount from the Fund to be issued as loans to eligible applicants subject to the provisions of this Act.

Eligibility criteria for loans

21. (1) The Committee Executive Committee Member shall develop guidelines and/or regulations on the eligibility criteria for the issuance of loans to applicants under this Act.
- (2) At a minimum, and without prejudice to the general provisions of section 31, the guidelines and/or regulations envisaged in subsection (1) shall provide for the following:
- (a) category of eligible applicants including requisite registration ny relevant public institutions;
 - (b) a minimum number of members of the applicant group;
 - (c) subject to section 22, the contractual relationship between the County Government and the bank and/or financial institution appointed to administer the loan facility;
 - (d) minimum and maximum amounts of loans that can be disbursed;
 - (e) terms of the loans to be disbursed including repayment period, interest rates applicable to the loan, security for the loan, penalties for default and related actions;
 - (f) reports on loans disbursed; and

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(g) such other relevant matters.

Appointment of
Bank or Financial
Institution

22. (1) The County Government shall contract a bank and/or financial institution, subject to approval by the County Executive Committee Member responsible for finance, to administer funds issued as loans to eligible applicants subject to such regulations as may be prescribed by the County Executive Committee Member.

(2) The agreement between the County Government and the bank and/or financial institution shall provide for the following—

(a) loan products shall be disbursed to qualifying applicants;

(b) amount to be deposited by the County Government with the bank and/or financial institution for purposes of disbursement as loans;

(c) the process of vetting and approving loan applications;

(d) amount of money advanced to bank and/or financial institution;

(e) period the financial institution is allowed to utilize the money;

(f) conditions for utilization of the money advanced;

(g) a clause to commit bank and/or financial institution to the loan conditions, repayments, security, if required, penalty for default, limits and interest rates set by the Fund;

(h) undertaking by bank and/or financial institution to guarantee the loans made and to reimburse the fund in the event of default;

(i) undertaking to insure the total amounts disbursed to its account by the fund against all risks;

(j) termination and consequences of termination; and

(k) such other relevant matters.

(3) For the avoidance of doubt, and for further clarity, it is hereby provided and agreed that a bank and/or a financial institution appointed under subsection (1) may only disburse funds as loans within the terms of the agreement with the County Government.

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- Audit and Accountability
- 23.(1) The County Committee shall carry out regular monitoring of all grant recipients to ensure that the grant agreement is adhered to.
- (2) The County Committee or any person authorized by it may audit the books of account, records, and documents to ensure that the grant's agreement is adhered to.
- (3) The recipient of the grant shall make his or her books of account, records, documents, and papers available to the receiver of the county committee or any person authorized by it for the purpose of an audit under subsection (2)
- (4) he county committee or any person authorized by it, may without a warrant, during normal business hours or at any other reasonable time, enter upon any premises or place where any business is carried on, operated, conducted, managed, or where any property is kept or any other thing is done in connection with which grant is granted, or where records are kept to ascertain compliance with the grant's agreement.
- (5) If a recipient of a grant fails to comply with the terms of the grant's agreement the committee shall take all necessary legal action including revocation of the grant.
- Records of the Fund.
24. The individual entities or group funded under this Act shall be required to keep proper records in relation to the business and the funds and such records shall be open for scrutiny by the Secretariat or any of its officers or that of the Committee administering the Fund.
- Registry and Documents
25. To ensure prudent effective Fund management, the Committee shall maintain an efficient and effective grant monitoring and tracking system that shall include the following: -
- (a). grant register;
 - (b). disbursement schedule;
 - (c). grant field report forms;
 - (d). copies of the identity card of the grantee;
 - (e). permanent physical address and contacts of the grantee;
 - (f). vetting and appraisal forms;
 - (g). copies of business licenses and permits;
 - (h). passport photos of the applicants; and

- (i). such other relevant information.

PART IV - FINANCIAL PROVISIONS

Annual Estimates 26. (1) In every budget cycle, the County Committee shall prepare or cause to prepare budget estimates of the Fund's income and expenditure for the given fiscal year.

- (2) The annual estimates shall make provisions for all estimates of expenditure relating to the administration and management of the Fund for the given fiscal year.

Annual Report and publication 27. (1) As soon as practicable after the end of the financial year, the Committee shall submit to the County Executive Committee a report of the operations of the Fund, the yearly balance sheet, and such other statements of accounts as the County Executive Committee may require.

- (2) The Executive Member shall lay before the County Assembly the reports, balance sheet, and statements submitted under this section in the sitting within the four months after the end of the financial year.

- (3) The Executive Member shall publish the balance sheet, statements, and reports submitted under this section within the County Government communication channels, including the County Government website.

PART V: GENERAL PROVISIONS

Oversight 28. The County Assembly shall have overall oversight over the Fund.

Winding up of the Fund 29. The County Executive Committee may wind up the Fund with the approval of the Assembly if there are sufficient grounds for doing so and upon winding up: -

- (a) the Committee shall pay any amount remaining in the Fund into the County Revenue Fund account;
- (b) the County Executive Committee Member responsible for finance shall, with approval of the County Assembly, pay any deficit in the Fund from the County Treasury; and
- (c) all assets of the Fund will be absorbed by the County in a manner proposed by the County Executive Committee Member with the approval of the County Executive Committee.

Offences 30. (1) In addition to any other remedy under this Act or any other written laws, an applicant who gives false or misleading statements in respect of the grant application or utilization of the grant, whether orally or in

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writing, commits an offense under this Act and on conviction is liable to a fine not exceeding twenty thousand shillings.

- (2) A person who disburses a grant contrary to the provisions of this Act commits an offense and on conviction shall be liable to a fine of a sum not exceeding five hundred thousand or to imprisonment for a term not exceeding six months or to both.
- (3) A person who utilizes or authorizes the utilization of the Fund other than in accordance with this Act commits an offense and on conviction, shall be liable to a fine of a sum not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both.
- (4) The provisions of this section shall not be construed as barring the County Government from applying any other remedy under any other written law.

Regulations

- 31. (1) The County Executive Committee Member shall make Regulations generally for the better carrying out of the objects of this Act.
- (2) Without prejudice to the generality of subsection (1), the Regulations may—
 - (a) prescribe the requirements for an award of loan including, but not limited to, the maximum amounts of loan that can be awarded, the repayment period, interest rates, security for advanced loan, if required, penalties for default and such related matters;
 - (b) prescribe the criteria for accessing the Fund;
 - (c) prescribe the conditions imposed on award of a grant;
 - (d) prescribe the limits of amounts that can be disbursed as grant to an applicant;
 - (e) prescribe the training to be offered to groups applying for funding under this Act;
 - (f) prescribe forms.

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SCHEDULE

**PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS
OF THE COMMITTEE**

1. A member of the County Committee, other than County Government officers, may—
Vacation of Office
 - (a) at any time resign from office by giving a notice in writing to the Governor; or
 - (b) be removed from office by the Governor if the person—
 - i. is convicted of a criminal offense and sentenced to imprisonment for a term exceeding six (6) months.
 - ii. is convicted of an offense involving dishonesty or fraud;
 - iii. is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a member of the Committee; or
 - iv. fails to comply with the provisions of this Act.
2. (1) Meetings shall be convened by the Chairperson of the Committee in consultation with the Secretary and shall be held at such times and places as the Chairperson shall determine.
meetings
 - (2) The Committee shall meet not less than four times every year and not more than two months shall elapse between the date of one meeting and the date of the next meeting
 - (3) Notwithstanding the provisions of sub-paragraph (2), the Chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Committee at any time for the transaction of the business of the Committee.
 - (4) Notwithstanding the provisions of sub-paragraph (2), the Chairperson may, in consultation with the secretary convene a special meeting of the Committee at any time for the transaction of the business of the Committee.

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- (5) 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.
 - (6) The quorum for the conduct of the business of the Committee shall be a simple majority of the Committee membership including the Chairperson or the person presiding.
 - (7) The Chairperson shall preside at every meeting of the Committee at which he/she is present in his/ her absence the Vice Chairperson shall chair the meeting but, in both their absence, the members present shall elect one of their members to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.
 - (8) 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.
 - (9) Subject to Sub-paragraph (6), 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 an outcome of any decision of the Committee or other 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 be counted in the quorum of the meeting during consideration of the matter: Conflict of interest
- (2) 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.
 - (3) A member of the Committee shall be considered to have a conflict of interest for the purposes of this Act if he/she acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member of the Committee.
 - (4) 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.

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- (5) If the Chairperson has a conflict of interest, he/she shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the Governor in writing.
- (6) Upon the Committee becoming aware of any conflict of interest, it shall make a determination as to whether in the 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.
- (7) The Committee shall report to the executive member any determination by the Committee that a conflict is likely to interfere significantly with performance as above, and whether or not the conflict has been eliminated to the satisfaction of the Committee.
- (8) The annual report of the Committee shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.
- (9) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.
- (10) A member of the Committee who contravenes sub-paragraph (1) commits an offence and is liable to imprisonment for a term not exceeding six (6) months, or to a fine not exceeding twenty (20) thousand shillings or both.

4. The Committee shall comply with the code of conduct governing public officers. Code of Conduct
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. Minutes

MEMORANDUM OF OBJECTS AND REASONS

The principal purpose of this bill is to provide a legislative framework for the establishment of the County Enterprise Development and Affirmative Action Fund and disbursement of funds as loans and grants for the promotion of enterprise development in the County.

PART I of the Bill sets out the preliminary provisions including the objects and purposes of the Act and the guiding principles for the implementation of the Act.

PART II provides for a framework for the establishment of the Homa Bay County Enterprise Development and Affirmative Action Fund and sets out the conditions for the opening of the funds account, utilization and administration of the fund. It further provides for the county institutional frameworks for the fund to include the County Enterprise Development and Affirmative Action Fund Committee and the ward committees.

PART III provides the conditions for access and utilization of the Fund including the facilities advanced by the Fund, terms and eligibility criteria for Grant and loan. It further makes provisions appointment of banks or Financial Institutions and provides for a framework for audit and accountability for the funds.

PART IV provides for financial provisions that include Annual Estimates for the fund and the annual report to the County Assembly and its publication thereof.

PART V of the Bill contains general provisions including provisions for oversight and winding up of the Fund. It sets out offences and procedure for prescription of regulations under the Act

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms.

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution.

Homa Bay County Enterprise Development and Affirmative Action Fund Bill, 2024

The Bill is a money Bill for the purposes of Article 114 of the Constitution as its enactment will occasion additional expenditure of public funds that shall be provided in the annual estimates.

Dated the 24th June 2024.

**HON. Zakayo Ong'ondo,
Chairperson, Trade Industry, Tourism, Cooperatives
Development and Marketing Committee**