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THE MARSABIT COUNTY RATING BILL, 2016**No. 11 of 2016***Date of Assent: 17th December, 2016**Date of Commencement: 30th December, 2016***AN ACT of County Assembly of Marsabit to provide for rating of land and for connected purposes****ENACTED** by the County Assembly of Marsabit as follows—**PART I—PRELIMINARY****Short title**

1. This Act may be cited as the Marsabit County Rating Act, 2016.

Interpretation

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

“agricultural land” means all land which is used for the purposes of agriculture, not being land which, under any law relating to physical planning, is proposed for use for the purposes other than agriculture;

“agricultural rental value rate” means a rate levied on the annual value of the agricultural land;

“annual value”, in relation to an agricultural rental value rate, means—

- (a) in the case of land which is held on a lease from the Government for a term of 99 years and in respect of which an annual rent has been reserved by such lease, the annual rent so reserved; and
- (b) in the case of any other land, the annual rent which might reasonably have been reserved if such land has been held on a lease from the Government for a term of 99 years commencing with the year 1960;

“assessment for improvement rate”, in relation to land, means the residual amount found by deducting the value of the unimproved land from the value of the land;

“improvements”, in relation to land, means all work done or material used on, in or under that land by the expenditure of money or labour in so far as the effect of the work done or material used is to increase the value

of the land, but does not include machinery, whether fixed to the soil or not;

“department” means the County Department responsible for lands;

“county executive committee member” means the County Executive Committee Member responsible for matters relating to lands;

“land registrar” means the Lands Registrar appointed under the Lands Registration Act, 2012;

“rateable owner” means a person who—

- (a) is the owner of the registered freehold of, or the tenant for life of, that property, in possession or in reversion or in remainder expectant upon a lease or interest, other than a lease or interest referred to in paragraph (b) or paragraph (c); or
- (b) is the lessee of that property holding under a registered lease for a definite term of not less than twenty-five years or for the natural life of any person, or under a registered lease which is renewable from time to time at the will of the lessee, or under a registered lease which is for an indefinite term or is renewable indefinitely, or under a registered lease which is renewable at the will of the lessee for a term or terms which, together with the initial term of the lease, amounts or amount to not less than twenty-five years, or is a person having any interest, other than an interest as a statutory tenant arising under the Rent Restriction Act (Cap. 296) in such property entitling him to possession thereof for a period not less than the period for which he would be entitled to possession if he were the lessee of the property; or
- (c) is a lessee of public land, under a registered lease of such property holding under a lease for, or is a person having an interest in such property otherwise than as a lessee entitling him to possession of such property for, a definite term of less than twenty-five years; or
- (d) in the case of property situate in any area or place to which the Land Registration Act, 2012 has been applied, but being property in respect of which no certificate of ownership has, at such date as aforesaid, been registered under that Act has or claims to have any such leasehold or other interest in the property as is specified in paragraph (a), paragraph (b) or

paragraph (c), or, where it cannot, be established that any person has or claims to have such an interest, is in possession, or is in receipt of the rents or profits, of such property; or

- (e) subject to paragraph (b), in the case of Trust land vested in the County Government, which receives the rent therefor, or which would receive the rent if the land were leased; or
- (f) is the lessee from the County Government of the rateable property holding under a registered lease of not less than ten years, shall, for the purposes of this Act, be the rateable owner of the property;

“rateable property” includes land, except—

- (a) any land used or reserved for roads, streets (including private streets), car parks, squares, parks, gardens or other open or enclosed spaces vested in the County Government;
- (b) public land as defined in the Constitution and provided for under the Land Act;
- (c) community land as defined and provided for in the Constitution and provided for under the Land Act; and
- (d) any other land exempted from valuation under the law relating to the valuation of property related to valuation of property for the purposes of rating;

“rating area” means, in relation to any method of rating or rate adopted or levied under this Act, the area in respect of which such method of rating or rate may be adopted or levied;

“valuation roll” means any valuation roll prepared under the Valuation for Rating Act Cap. 266; and

“year” means a period of 12 months starting on 1st January or such other prescribed date.

Purpose of the Act

3. The purpose of this Act is to provide for a legal framework for imposition and collection of property rates in Marsabit County in accordance with Article 209 (3) and 210 of the Constitution in order to—

- (a) ensure efficiency, accountability and transparency in administration in rating of land;
- (b) ensure equity and fairness in land rating system; and
- (c) ensure compliance with payment of rates related to land.

PART II—ADMINISTRATION**Functions of Department**

4. The Department shall be responsible for—
 - (a) subject to the approval by the County Assembly, imposing rates on rateable properties;
 - (b) determining the applicable method of area rating;
 - (c) provide general administration of the implementation of this Act; and
 - (d) advising the County Executive Committee Member on any matter related to the implementation of this Act.

Staff

5. The County Public Service Board shall in consultation with the County Executive Committee Member ensure that the department is resourced with adequate valuers and other necessary staff for effective carrying out of responsibilities under this Act.

PART III—RATING**Levying of Rates**

6. (1) There shall be levied rates on all rateable property under this Act which shall be based on the Valuation Roll prepared under the law relating to valuation of property for the purpose of rating.

(2) A rateable owner shall be responsible for paying the rates levied under this Act.

(3) If the owners of the land are joint registered owners or tenants in common, they are jointly and severally liable for the payment of the rate.

(4) If the rateable owner of the land is absent from Kenya, any person receiving the rent or being in charge or control of the land is liable for the payment of the rate.

(5) The applicable rates in respect of the rateable properties shall be in accordance with the schedule of rates prepared under this Act.

(6) The County Executive Committee Member shall, within six months after the preparation of each Valuation Roll prepare the schedule of rates described under subsection (5) which shall be a Schedule under this Act.

(7) The County Executive Committee Member shall involve the rateable owners in preparation of the schedule of rates under subsection (6) and shall take into consideration the views of the rateable owners.

(8) The County Executive Committee Member shall submit the Schedule of rates prepared under subsection (6) to the County Assembly for approval.

Forms of Rating

7. (1) For the purposes of levying rates under this Act, the Department may, subject to the approval by the County Assembly, adopt any of following forms of rating—

- (a) an area rate in accordance with section 8 of this Act;
- (b) an agricultural rental value rate; or
- (c) a site value rate or a site value rate in combination with an improvement rate in accordance with section 9 of this Act.

(2) Where any one of the forms of rating under subsection (1) has been adopted in respect of any rating area, no other form of rating under this subsection shall, at the same time, be adopted in respect of that area.

(3) The department shall, upon the approval of the applicable form of rating in respect to a rating area under subsection (1), publish a notice to the effect of the approval in at least one local newspaper with the widest circulation in the country and local media as the department may determine.

(4) The form of rating adopted under this Act shall be based on valuation roll prepared under the law relating to valuation of property for the purpose of rating.

Alternative Methods of Area Rating

8. (1) Subject to subsection (2), the department may, with the approval of the County Assembly, adopt one or more of the following methods of rating—

- (a) a flat rate upon the area of land;
- (b) a graduated rate upon the area of land;
- (c) a differential flat rate or a differential graduated rate upon the area of land according to the use to which the land is put, or capable of being put, or for which it is reserved;

- (d) an industrial rate upon the area of land used for other than agricultural or residential purposes;
 - (e) a residential rate upon the area of land used for residential purposes; and
 - (f) such other method of rating upon the area of land or buildings or other immovable property as the department may resolve.
- (2) A rate levied under this section shall be referred to as an area rate.
- (3) The department may adopt different methods of area rating for different parts of the county and may from time to time vary the method or methods adopted, and may adopt in relation to any rating area the methods of area rating referred to in subsection (1) in the following manner—
- (a) method (a) or method (b) or method (c) as alternative methods which are mutually exclusive;
 - (b) method (d) or method (e), or both, in addition to method (a) or method (b), but not in addition to method (c); or
 - (c) method (f) shall not be combined with any other method of area rating.

Site value and Improvement Rates

9. A site value rate may be levied in combination with a rate on the assessment for improvement rate as appearing in the valuation roll (in this Act referred to as an “improvement rate”):

Provided that—

- (i) any site value rate shall not, without the approval of the County Assembly, exceed four per centum of the unimproved value of land; and
- (ii) the estimated product of any improvement rate shall not, without the approval of the County Assembly, exceed in any financial year one quarter of the estimated aggregate product of the rate levied in such financial year.

Supplementary Rate

10. The department may levy a supplementary rate for any financial year if it deems it is necessary to do so:

Provided that where a site value rate or an improvement rate is levied no such supplementary rates which, when added to the rate or rates

previously levied in the same financial year, would exceed either of the limits laid down in the provisos to subsections (1) and (2) of section 9 the approval of the County Assembly.

Uniformity of Rate

11. Any site value rate or improvement rate levied under this Act shall be a rate at a uniform percentage of the rateable value of each rateable property in the county.

Equitable Distribution of Rates

12. The department shall, while adopting any method of rating under this Act ensure that the rates are equitably distributed across all rating areas.

Due Date for Rates

13. (1) Any rate levied under this Act shall become due on the first day of January and shall become payable not later than last day of the same month.

(2) The department shall publish a notice of not less than thirty days to all rateable owners on the date the rates become payable and the amount of rate payable.

Payment of Rates and Interest

14. (1) When the department has issued notice under section 13, it shall be the duty of the person liable to pay the rates to pay the amount of such rate within the stipulated time.

(2) Any rates that remain unpaid within the stipulated time shall attract a charge of simple interest at the rate of three per cent per month.

(3) Notwithstanding subsection (2), the interest charged shall not exceed the principal amount of the rate owing.

(4) (a) rates must be paid to the receiver of revenue or any other person authorized by the department to collect rates;

(b) all rates collected shall be paid into the County Revenue Fund;

(c) rates are payable—

(i) by an electronic transfer of funds or such other ways approved by the revenue receiver; or

(ii) at the offices of the department or at any other place approved by the revenue receiver;

- (d) the County Revenue Receiver must issue a receipt for the payment of any rates to the person who paid the rates.

Discount of Rates

15. The County Executive Committee Member in consultation with the County Revenue Receiver may allow a discount of not more than five per cent of the amount payable on any rate paid on or before the day on which such rate becomes payable or such later day agreed upon.

Rates Chargeable on Property

16. (1) Any rates due, together with interest thereon calculated in accordance with section 14, shall be a charge against the land on which the rate was levied.

(2) Where the title to property described under subsection (1) is registered under any law relating to the registration of title to land, the department may deliver a notification of the charge described under subsection (1) in the prescribed form to the Land Registrar.

(3) The Land Registrar shall register charge notified under subsection (2) against the title to that land and the charge shall take priority in accordance with such law.

Statement of Payment of Rates and Other Charges

17. The department shall upon request by rateable owner provide a statement of payment of rates which shall include any other relevant charges such as sewerage, sanitary and refuse removal charges chargeable to the property.

Exemption From, and Remission of Rates

18. No area rate or agricultural rental value rate shall be imposed on any land which no valuation for the purposes of rating has not been made under this Act.

Contribution in Lieu of Rates

19. (1) There shall be paid to the County Government an annual contribution in lieu of any rates levied under this Act by—

- (a) the National Government in respect of public land held by National Government; and
- (b) the community in respect of land vested in the community.

(2) The contribution in lieu of rates payable under this section shall be calculated in accordance with this Act.

Publication and Service of Notices, etc

(20) (1) Except where otherwise provided under this Act, any notice required to be published under this Act shall be published in one or more newspapers circulating in the county.

(2) Any notice, demand or other document required or authorized to be sent or served under or for the purposes of this Act may be sent or served either—

- (a) by delivering it to the person to or on whom it is to be sent or served; or
- (b) by leaving it at the usual or last known place of abode or business of that person, or, in the case of a company, at its registered office; or
- (c) by ordinary or registered post; or
- (d) by delivering it to some person on the premises to which it relates, or, if there is no person on the premises to whom it can be delivered, then by fixing it on or to some conspicuous part of the rateable property; or
- (e) by any method which may be prescribed in the regulation.

(3) Where any notice, demand or other document required to be served under this Act has been sent by ordinary or registered post, delivery or service thereof shall, unless the contrary is proved, be deemed to have been effected at the time at which a letter would be delivered in the ordinary course of the post.

PART IV—ENFORCEMENT

Enforcement of the Payment of Rates

21. (1) Where a rateable owner fails to pay the rates due and any interest on such unpaid rate when they become payable, the department may send a demand for the unpaid rates to the rateable owner in the prescribed form.

(2) A person who having been served with a demand under subsection (1), makes default in payment of the rates and any interest on such unpaid rate, the department or the designated agency of the County Government may institute civil suit for recovery of the amount owed.

Recovery of Rates From Tenants or Occupiers

22. Where any rates remain unpaid after the demand is sent to rateable owner under section 13, the department or such agency designated by the county government may serve a written notice in the prescribed form—

- (i) to any person paying rent in respect of any land on which such rates was levied; and
 - (ii) to the rateable owner;
- (2) A notice issued under subsection (1) shall—
- (i) state the amount payable to the County Government; and
 - (ii) require or direct that all future payments of rent to be made directly to the County Government until such amounts payable have been fully paid;

and such notice shall serve to transfer to the County Government the right to recover and receive such monies.

(3) A tenant who pays the rent to the County Government under this section shall not be liable to pay to the rateable owner the amount paid to the County Government.

(4) The department or the agency designated by the County Government shall issue a discharge note to the tenant and the rateable owner after the tenant has completed paying to rates payable under this section.

PART V—GENERAL PROVISIONS**Regulations**

23. (1) The County Executive Committee Member may 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 forms of applications and notices;
- (b) prescribe fees payable under this Act; and
- (c) the exemption, waiver or reduction of rates.

(3) Pursuant to Article 94 (6) of the Constitution, the legislative Authority delegated to the County Executive Committee Member in this

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section shall be exercised only for the purpose and intent specified in this section and in accordance with the principles and standards set out in the Interpretation and General Provisions Act and the Statutory Instrument Act, 2013.

Saving

24. Any rate paid or payable to the County Government prior to the coming into force of this Act shall be deemed to be paid or payable under this Act.