

## **THE TAITA TAVETA COUNTY LAND BANKING BILL, 2019**

### **ARRANGEMENT OF CLAUSES**

*Clause*

#### **PART I—PRELIMINARY**

- 1—Short title.
- 2—Interpretation.
- 3— Object of the Act
- 4— Guiding Principles

#### **PART II — ESTABLISHMENT AND ADMINISTRATION OF LAND BANKING**

- 4 — Establishment of Land Banking Committee
- 5 — Composition of Land Banking Committee
- 6 — Functions of the Land Banking Committee
- 7— Remuneration of Land Banking Committee
- 8— Tenure of office for Land Banking Committee

#### **PART III —LAND BANKING FUND**

- 9— Establishment of Land Banking Fund
- 10—Object and Purpose of the Fund
- 11— Sources of Land Banking Fund
- 12 — Management of Banking Fund
- 13 — Responsibilities of the Fund Administrator

#### **PART IV — FINANCIAL PROVISIONS**

- 14— Bank Accounts.
- 15— Financial Year
- 16—Annual Estimates

#### **PART IV — MISCELLANEOUS PROVISIONS**

- 17— Regulations
- 18— Protection from Liability
- 19— Procedure of Resolving Conflict

**THE TAITA TAVETA COUNTY LAND BANKING BILL, 2019**

**A Bill for,**

**AN ACT of the County Assembly of Taita Taveta to provide for the protection of land rights for vulnerable groups from unjust exploitation and illegal expropriation in the County and for connected purposes**

**ENACTED** by the County Assembly of Taita Taveta, as follows—

**PART I— PRELIMINARY**

Short title.           **1.** This Act may be cited as the Taita Taveta County Land Banking Act, 2019.

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

“County” means the Taita Taveta County;

“County Assembly” means the County Assembly of Taita Taveta;

“County Executive Committee” means the County Executive Committee of the County as constituted under article 179 (2) of the Constitution of Kenya, 2010;

“Land Bank” means the Land Bank for the purposes of acquiring, holding, and transferring land under this Act;

“Land Banking Committee” means the Committee established under section 4 of this Act;

“Land Banking Fund” means a fund established under section 10 of this Act;

“Fund Administrator” means the Fund Administrator as designated under section 12 (1) of this Act.

Object the Act.

3. The object of this Act is to:

(a) Enhance access, ownership and profitability of land for the people of Taita Taveta County:

(b) Protect rights of vulnerable groups of the County people from unfair and illegal exploitation and expropriation of their land;

(c) Establish the Land Banking Fund;

Guiding Principles

4. In the performance of the functions and exercise of powers under this Act, every person dealing with Land Banking shall be guided by the following principles-

(a) the principles of land policy set out in Article 60 of the Constitution; and

(b) the national values and principles of governance set out in Article 10 of the Constitution.

## **PART II — ESTABLISHMENT AND ADMINISTRATION OF LAND BANKING**

Establishment of Land Banking Committee.

5. There shall be a County Land Banking Committee which shall be:

(a) A body corporate with perpetual succession and a seal; and

Composition of Land Banking Committee

(b) capable of suing and being sued in its name.

**6.** The Land Banking Committee shall comprise of:

(a) The County  
Executive  
Committee  
Member for lands  
who shall be the  
Chairperson;

(b) The County Chief Officer for  
lands who shall

be the Secretary to the Committee;

(c) The County Chief Officer for finance;

(d) Chair of the County Assembly Lands Committee;

(e) County coordinator of the National Land Commission;

(f) One nominee from each of the following professional associations (i) Institute of Surveyors of Kenya; and (ii) Kenya Institute of Planners.

Functions of the Land Banking Committee

**7. The Land Banking Committee shall perform the following functions—**

(1) Coordinate, manage and administer the administrative functions of Land Banking including

(a) Establishing a fund to purchase land from vulnerable people of the County who may otherwise be compelled to sell their land below

---

market  
prices;

Banked  
Land;

(b) Setting  
aside  
such  
purchased land  
to the  
Land  
Bank;

(e) Creating  
awareness  
among  
the  
people  
of the  
County  
on Land  
Banking  
for the  
effective  
implementation  
of the  
Land  
Banking

(c) Establis  
h and  
coordin  
ate an  
efficient  
and  
account  
able  
mechani  
sm for  
valu  
ing  
fair land  
prices;

(d) Establis  
h a  
mechani  
sm  
for  
purchasi  
ng,  
develop  
ing,  
rehabilit  
ating,  
disposin  
g or  
otherwi  
se  
improvi  
ng upon  
the

system in a manner that is beneficial to the people of the County.

(2) exercise of any functions and powers reasonably arising from their functions under this Act.

Remuneration of Land Banking Committee

**8.** Members of the Land Banking Committee shall not receive a salary. They shall however be paid such allowances and benefits as per the guidelines issued from time to time by the Salaries and Remuneration Commission.

Tenure of office for Land Banking

Establishment of Land Banking Fund

**9.** The term of the Land Banking Committee shall be concurrent with the term of the serving County government.

Object and Purpose of the Fund

### **PART III —LAND BANKING FUND**

**10.** (1) There is established a fund to be known as the County Land Banking Fund.

**11.** The object and purpose of the Fund shall be to provide funds to for coordination, management and administration of the functions of the Land Bank.

Sources of Land Banking Fund of:

**12.** (1) Sources of the Land Bank Fund shall consist

(a)  
Su  
ch

The Taita Taveta County Land Banking Bill, 2019

m	or	n
on	assets	t
ies	as may	s
as	accrue	,
ma	to the	e
y	Fund from time to	n
fro	time; and	d
m		o
ti	(c)	w
me	A	m
to	ll	e
ti	m	n
me	o	t
be	n	s
vo	i	o
ted	e	r
by	s	l
the	,	o
Co	g	a
un	i	n
ty	f	s
As	t	m
se	s	a
m	,	d
bl	d	e
y	o	t
for	n	o
tha	a	t
t	ti	h
pu	o	e
rp	n	F
os	s	u
e;	,	n
	g	d
(b) such	r	.
monies	a	

(2) Any funds donated or lent to, or gift made to the Fund

under subsection (1) (c) shall be disclosed and made public by publishing in the County Government website.

(3) The receipts, earnings and accruals of the Fund and the balances at the close of each financial year shall not be paid into the County Revenue Fund but shall be retained for the purposes of the Act.

Management of Land Banking Fund

**13.** (1) The County Executive Committee Member responsible for finance shall designate a person who shall administer the Land Bank Fund.

(2) The Fund Administrator designated under subsection (1) above shall be the

accounting officer of the

Fund. (3) The Fund

Administrator shall-

Responsibilities of the Fund Administrator

(a) Prepare and keep the accounts of the Fund in each financial year; and

(b) Not later than three (3) months after the end of each financial year, submit financial statements relating to those accounts to the County Assembly; and

(4) The Fund Administrator shall ensure that the accounts for the Fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time.

**14.** (1) The Fund Administrator shall—

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

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

(c) Ensure that all contracts entered into on behalf of the Fund are lawful and are complied with;

(d) 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 custody, safe guarding and maintenance;

(e) Bring a matter to the attention of the County Executive Committee Member responsible for lands, in the accounting officer'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;

(f) Submit the estimates of the Fund to the County Executive Committee Member responsible for lands who, after approving it, shall forward it to the County Executive Committee Member responsible for finance;

(g) 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 the Auditor— General for audit, with a copy to the County Treasury;

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

(i) 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;

(j) Ensure that the Fund has adequate systems and processes in place to plan for, procure, account for, maintain, store and dispose of assets, including an asset register that is current, accurate and available to the relevant County Treasury or the Auditor-General;

(k) provide the County Treasury with any information it requires to fulfil its functions under this Act;

(l) Provide information on any frauds, losses, or any violations of subsection (1) and provide explanations for the actions taken to prevent similar conduct in future; and

(m) Carry out such other responsibilities as may be specified in regulations by the County Executive Committee Member responsible for matters finance.

**PART IV — FINANCIAL PROVISIONS**

Bank Accounts

**15.** (1) A bank account of the Fund shall be opened and maintained at a public commercial bank by the Fund Administrator in accordance with the provisions of the Public Finance Management Act.

(2) The signatories to the Bank Account maintained in accordance with subsection (1) shall jointly be—

- a) the Fund Administrator;
- b) the Chief Officer Lands; and

Financial Year

c) The One other member of the Committee as shall be voted by a simple majority of the members of the Committee,

Annual  
Estimates

on all payments in cheques or any other instruments intended for actual release of money from the Fund.

**16.** The financial year of the Fund shall be the period of twelve months commencing on the first of July and ending on the thirtieth of June of the subsequent year.

**17.** (1) In every

budget cycle, the Land Banking Committee shall cause to be prepared 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 administration and management of the Fund for the given fiscal year, and shall in particular provide

for—

(a) the cost of purchase of potential land;

(b) Cost of administering, managing or otherwise dealing with the Fund;

(c) payments or reimbursements to members of the Land Banking Committee of monies in respect of expenses incurred in the course of executing their respective duties;

(d)cost of maintenance of equipment and the buildings and grounds of the Land Banking Committee;

(e) funding of training, research and development activities in relation to Land Banking; and

(f) funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of such other matters as the Land Banking Committee may think fit.

#### **PART IV — MISCELLANEOUS PROVISIONS**

Regulations

**18.** (1) The county executive member responsible for land shall make regulations for the better carrying out of the provisions of this Act.

Protection from Liability

**19.** No matter or thing done by a member of the Land Banking Committee or any officer, employee or agent of the Committee shall, if the matter or thing is done in good faith for executing the functions, powers or duties of the Land Banking Committee, render the member, officer, employee or agent of the Management Committee personally liable to any action, claim or demand whatsoever.

## **MEMORANDUM OF OBJECTS AND REASONS**

The object of this Bill is to provide for the establishment of a Land Banking system and Land Banking fund to purchase land from the vulnerable people of Taita Taveta County who are compelled to sell their land at unfair prices, and for setting aside the land to the Land Bank.

Part I of the Bill contains preliminary provisions, including the title reference of the proposed Act and guidance on construction of various terms, as used in the proposed law. It further states the object and purpose of the bill.

Part II lays down the institutional framework for implementing the intended Act. The part provides for various aspects in relation to the Land Banking Committee, including: composition, functions, remuneration and tenure of office.

Part III establishes the Land Banking Fund. The part inter alia sets out the object and purpose, sources and management of the Fund, as well as responsibilities of the Fund Administrator.

Part IV provides for financial provisions. It sets out the mechanism for handling of the fund monies, including accountability relating to fund bank accounts, financial year and annual estimates.

Part V contains miscellaneous provisions. It authorises the County Executive Member responsible for Public administration to make regulations for the better carrying out of the provisions of the intended Law. It further provides for protection of liability against certain actions and omissions and the procedure for resolving conflict arising within the operation of this intended Act.

The enactment of this Bill will occasion additional expenditure of public funds to be provided for through annual estimates.

**Dated the    day of            , 2019.**

**HON. MWAMBINGU CHRISTOPHER  
NOMINATED MEMBER,  
COUNTY ASSEMBLY OF TAITA TAVETA**