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CONTENT

Bill for Introduction into the County Assembly of Kajiado

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THE KAJIADO COUNTY INVESTMENT AUTHORITY BILL, 2021

ARRANGEMENT OF CLAUSES

Clause

THE KAJIADO COUNTY INVESTMENT AUTHORITY BILL, 2021

A Bill for

AN ACT of the County Assembly of Kajiado to provide for the establishment of an Authority for promotion and coordination of investment including purposes

ENACTED by the County Assembly of Kajiado, as follows—

PART I—PRELIMINARY

Short title and commencement

1. This Act may be cited as the Kajiado County Investment Authority Act, 2021 and shall come into force upon publication in the *Gazette*.

Interpretation

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

"Authority" means the Kajiado County Investment Authority established under section 4;

"Board" means the Board of the Authority established under section 6;

"County Executive Committee" means the County Executive Committee of County Government of Kajiado;

"County" means Kajiado County;

"County Government" means the Government of Kajiado County;

"County Public Service Board" means the Kajiado County Public Service

Board;

"Executive Committee Member" means the Executive Committee Member for the time being responsible for matters relating to Investment,

"foreign investor "means –

(a) a natural person who is not a citizen of Kenya;

(b) a partnership in which the controlling interest is owned by a person or persons who are not citizens of Kenya, or

(c) a company or other body corporate incorporated under the laws of a country other than Kenya;

"investment" means the contribution of local or foreign capital by an investor, for the purposes of acquisition, expansion, restructuring, improvement or rehabilitation of business enterprise;

"investment certificate" means an investment certificate issued under this Act;

"license" includes a registration, permit, approval or authorization required by law regardless of how it is described;

"local investor" means –

(a) a natural person who is a citizen of Kenya;

(b) a partnership in which the partnership controlling interest is owned by a person who is a citizen of Kenya;

(c) a company incorporated under the laws of Kenya, in which the majority of the shares are held by a person who is a citizen of Kenya; or

(d) a trust or trust authority established under the laws of Kenya, in which the majority trustees and beneficiaries are citizens of Kenya.

Purpose of the Act

3. The purpose of this Act is to provide for the establishment of a legal and institutional framework for county investment in order to –

(a) enhance financial and economic prudence in County Government investments;

(b) establish an efficient and effective instrument for managing County Government investments;

(c) enhance competitiveness of County Government investments;

(d) promote local investment and economic development;

(e) enhance county revenue base;

(f) provide for mobilization of finances for investments;

(g) provide for investment in socially beneficial projects;

(h) facilitate investments by county residents;

(i) coordinate and facilitate investments in the county;

(j) enable the County Government to undertake public private partnerships and joint ventures in areas that are beneficial to the county.

(k) provide investment oversight by formulating the county's overall investment strategy and implementing the Kajiado County Investment policy

(l) enable Investment promotion and facilitation by developing bankable projects, outlining their competitive positions, and preparing marketing materials aligned to their areas of strategic focus.

(m) enable Investment entry and establishment to Kajiado County by facilitating entities through the One-Stop Centre to minimize the administrative burden on investors and county departments.

(n) promote investment retention and aftercare by ensuring that investments located within its territory are given the highest level of attention.

(o) establish a Kajiado County Heritage wealth fund resourced by both the county treasury and grants from development partners

(p) establish land banks which could be used for large projects

PART II– THE KAJIADO COUNTY INVESTMENT AUTHORITY

Establishment of the Authority

4. There is established an Authority to be known as the Kajiado County Investment Authority

(2) The Authority shall be a body corporate with perpetual succession, which can sue and be sued and with a common seal and shall, in its corporate name, be capable of—

(a) taking, purchasing or otherwise acquiring, holding, charging or disposing of property;

(b) borrowing money;

(c) making investments;

(d) entering into contracts; and

(e) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate

(3) The Authority shall be owned by the County Government.

(4) The Authority shall be independent, be reporting and answerable to the Governor and not any other department of the County.

Functions of the Authority

5. The functions of the Authority shall be to—

(a) improve investment and business environment and undertake such other activities as may be necessary to promote the County as an attractive base for investments;

(b) holding property and assets on behalf of the County Government for the purposes of investment and development;

(c) undertaking investments on behalf of the County Government for purposes of generating revenue

(d) conduct research and studies in identifying investment opportunities;

(e) act as a think tank in highlighting policy issues and making policy recommendation to the County to boost investment and attain County economic objectives;

(f) co-ordinate multi-sectorial activities and be the focal point for all investment-related and marketing activities in the County;

(g) consider and register investment proposals from investors and provide necessary assistance for implementation of projects;

(h) provide support services to investors including assistance to procure authorizations, permits and licenses required for establishment and operation of activities promoted by the Board;

(i) ensure co-ordination and cooperation between the public sector and the private sector on matters of investments and for policy decisions impacting on investment;

(j) act as the single interface with all the investors and liaise with relevant authorities in the National Government for the granting of occupation permits, residence permits and other relevant permits required by an investor to operate in the County;

(k) receive and process applications for investment certificates and issue investment certificates;

(l) identify specific projects and invite interested investors for participation in those projects;

(m) initiate, organize and participate in all activities such as exhibitions, conferences and seminars for stimulation of investments;

(n) provide and disseminate up-to-date information on incentives available to investors;

(o) advise the Executive Committee Member and the County Executive Committee on necessary policies, programs and plans to be adopted in order to attract investments in the county

(p) the authority will facilitate the County Government of Kajiado on investment in strategic areas; and

(q) carry out such other roles necessary for the implementation of the objects and purpose of this Act and perform such other functions as may, from time to time, be assigned by the County Executive Committee.

(r) develop a value proposition to investors based on the county's competitive advantages including formulating promotional literature that can be shared with potential investors.

(s) working closely with local communities to identify land available for investment and facilitate the entry process for investors,

(t) facilitating community engagement and review of potential investment projects and obtaining local endorsement for any county-based government incentives.

(u) provide effective investor aftercare and identifying and facilitating reinvestment and upgrading of current investments.

(v) monitoring the investment climate in the county and provide write ups /policy memorandums to the county and national government for corrective action.

(w)profile and maintain a database of MSMEs that could form partnership with large players in order to encourage and enhance domestic value addition.

(x) mobilize Resources to ensure effective funding gaps that will fill the budget gaps per program.

(y) develop legislative framework for effective resource mobilization mechanism.

(z) increase flow of resources from existing supporters of the various programs supported by donor partners and bring in new supporters.

Board of the Authority

6. (1) The management of the Authority shall vest in the Board which shall consist of—

(a) a non-executive chairperson who shall be appointed by the Governor;

(b) chief officer for the time being responsible for finance;

(c) the chief officer for the time being responsible for Trade;

(d) four professionals appointed through a competitive process by the Kajiado County Public service Board in consultation with the Governor,

(e) The Chairperson for the time being of the Kajiado County Economic Council,

(f) the Managing Director who shall be an ex officio member and secretary to the Board. The Chief officer in charge of Investments at the time of enactment shall Act in the capacity of Managing Director until the position is substantively filled by the County Public Service Board;

(g) County Public Service Board shall appoint through a competitive process at least 4 heads of departments within the Authority;including but not limited to Head of Finance, Investment Secretary, Internal Audit, Human Resources and Head of Compliance. Other additional departments may be created or roles defined in consultation with the County Public Service Board. These heads of departments shall be the executive organ of the Authority and shall be the accounting officers of their departments with the Managing Director being the overall accounting officer of the authority; All other Board members shall be non-executive Directors of the Authority

(2) Additionally, for a person to be qualified for appointment as a chairperson or a member appointed under subsection (1) (d) shall possess the following minimum qualifications; –

(a) holds a bachelor's degree in economics, law, finance, accounting, or any business-related field from a recognized university; and

(b) has experience of at least ten years in senior level management in the public or private sector;

(c) will be non-executive

(d) meets the requirements of Chapter Six of the Constitution.

(e) The term of office for the chairperson or a member appointed under sub section (1) (6d) shall be three years, which may be renewed for one further term.

(f)Notwithstanding subsection (3), the members of the Board shall retire on rotation, in a manner that will ensure that not more than two thirds of the members retire at the same time.

(g) Not more than two thirds of the members of the Board under (1) shall be of the same gender.

Functions of the Board

7. The functions of the Board shall be to—

(a) ensure proper and efficient exercise of the powers and performance of the functions of the Authority;

(b) advise the management of the Authority generally on the exercise of the powers and the performance of the functions of the Authority;

(c) approve the estimates of the revenue and expenditure of the Authority for transmission for approval by the County Treasury and County Assembly as guided under the existing laws; and

(d) Perform such other functions as are provided for under this Act or any other written laws.

Conduct of Business

8. (1) The conduct and regulation of the business and affairs of the Board shall be as set out in the First Schedule.

(2) Except as provided in the First Schedule, the Board may regulate its own procedure.

Remuneration of the Board

9. The Authority shall pay members of the Board such allowances and expenses as determined by the Salaries and Remuneration Commission.

Managing Director

10. (1) There shall be a Managing Director of the Authority who shall be the Chief Executive Officer of the Authority.

(2) The Managing Director for subsequent years after the formative five years shall be appointed by the Kajiado County Public Service Board.

(3) To qualify for appointment as a Managing Director, a person must—

(a) possess a degree in business, accounting, finance or any other related field from a recognized university; and

(b) have had experience in management for a period of not less than seven years.

Tenure of Office

11. The Managing Director shall hold office for a period of five years, on such terms and conditions of employment as the County Public Service Board may determine, and shall be eligible for re-appointment for a further and final term of five years.

Functions of Office

12. The Managing Director shall in consultation with the Board —

(a) be responsible for the day to day management and direction of the affairs and transactions of the Authority,

(b) the exercise, discharge and performance of its objectives, functions and duties;

(c) the general administration of the Authority; and

(d) Carry out any other function as may from time to time be assigned by the Board.

Vacation of Office

13. The Managing Director may—

(a) at any time resign from office by issuing notice in writing to the chairperson of the Board;

(b) be removed from office by the Executive Committee Member on recommendation of the Board, for—

(i) serious violation of the Constitution or any other written law;

(ii) gross misconduct;

(iii) physical or mental incapacity to perform the functions of office;

(iv) incompetence;

(v) bankruptcy.

Staff of the Authority

14. (a) Board of the authority shall appoint such staff as are necessary for proper discharge of the functions of the Authority under this Act, upon such terms and conditions of service as it may determine in consultation with the Authority.

(b) The staff appointed by the Authority shall not interfere with the Investor during execution of the contractual obligation.

The Common Seal of the Authority

15. (1) The common seal of the Authority shall be kept in the custody of the Managing Director or of such other person as the Board may direct, and shall not be used except upon the order of the Board.

(2) The common seal of the Authority, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.

(3) The common seal of the Authority shall be authenticated by the signature of the chairperson of the Board or the Managing Director.

Protection from Personal Liability

16. (1) Any act or omission by a member of the Board or by any officer, member of staff, or agent of the Authority shall, if the act or omission is bona fide for executing the functions, powers or duties of the Authority under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever, is nor liable for such acts or omissions.

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any, act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done bona fide be paid out of the funds of the Authority, unless such expenses are recovered by him or her in such suit or prosecution.

Liability from Damages

17. (1) The provisions of section 13 shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

(2) The Investor shall not be liable to the loss and or damage incurred by the Authority and the County before, during and after execution of its contractual obligations thereof.

Corporate Governance

18. The Authority shall establish and implement corporate governance principles and practices applicable to similar entities.

Annual Report

19. (1) The Authority shall, within three months after the end of each financial year, prepare and submit to the Executive Committee Member a report of the operations of the Authority for the immediately preceding year

(2) The annual report shall provide information regarding the activities and plans of the Authority during the year to which it relates sufficient to impart an accurate understanding of the nature and scope of its activities and its plans and priorities and, without limitation, shall include –

(a) details of the performance of the Authority against its key performance indicators;

(b) report on the overall status of the investment portfolio and profitability of each investment venture including the Authority 's projections for the following year,

(c) such information and other material as the Authority may be required by this Act or rules or regulations made thereunder to include in the annual report;

(d) measures taken to implement corporate governance principles and practices,

(e) the financial statements prepared under section 21;

(f)report of the Auditor-General prepared under section 21; and

(g) such additional information or other material as the Executive Committee Member may request in writing.

PART III—FINANCES OF THE AUTHORITY

Funds of the Authority

20. (1) The funds and assets of the Authority shall consist of—

(a) such moneys as may be appropriated by the county assembly for the purposes of the Authority;

(b) revenues realized from investments undertaken by the Authority;

(c) such gifts, grants or moneys received from any lawful source; and

(d) all moneys borrowed from securities market or received as loans to the Authority.

(e) All levies as may legally be levied with authority of the County treasury.

(2) The Authority shall apply the money provided under this section for the furtherance of its purpose and performance of the functions of the Authority and as prescribed under this Act.

Financial Year

21. The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in each year.

Annual Estimates

22. (1) At least three months before the commencement of each financial year, the Authority shall cause to be prepared annual estimates of the Authority for that year. These shall be for purposes of audit of the authority as an entity and for transmission of budget estimates through the County Treasury to the Assembly in accordance with public finance management Act.

(2) The annual budget shall make provision for all estimated expenditure of the Authority for the financial year and in particular, the estimates shall provide for the –

(a) allocations for investments related to each business venture;

(b) debt repayment schedule;

(c) payment of the salaries, allowances and other charges in respect of the staff of the Authority;

(d) payment of allowances and other charges in respect of members of the Board which must be in strict compliance to the guidelines issued by the Salaries and Remuneration Commission from time to time.;

(e) payment of pensions, gratuities and other charges in respect of members of the Board and staff of the Authority;

(f)proper maintenance of the buildings and grounds of the Authority;

(g) maintenance, repair and replacement of the equipment and other property of the Authority; and

(h) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Board may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the

County Executive Committee for final approval through the County Assembly as stipulated in section 8 of the County Governments Act.

(4) No expenditure shall be incurred for the purposes of the Authority except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization of the Board given with prior written approval of the Executive Committee Member.

Accounts

23. The Board shall cause to be kept proper books and records of accounts and assets of the Authority.

Financial Reports and Audit

24. (1) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General, the accounts of the Authority together with

(a) a statement of financial position as at the thirtieth day of June;

(b) a statement of comprehensive income;

(c) a statement of cash flow for the year ended;

(d) a summary of significant accounting policies and other explanatory information;

(e) other financial statements applicable to similar institutions.

(2) The accounts of the Authority shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

PART IV—INVESTMENT PROMOTION, INCENTIVES, LICENSES, CERTIFICATES AND PERMITS

Investment Promotion Strategy

25. (1) The Authority shall prepare at least a ten-year investment promotion strategy subject to the approval of the County Executive Committee.

(2) The investment strategy and plan shall provide among others for–

(a) targeted sources of investment capital;

(b) targeted investment opportunities;

(c) specific investment projects and their respective projects appraisals that should be undertaken by the County Government in order to promote investment in the county;

(d) estimated cost of the investments;

(c) any other matter as the Executive Committee Member may prescribe.

(3) The Authority shall not undertake any investment promotion activity unless it is stipulated under the plan.

(4) The Authority may review the investment promotion strategy after each year in order to align it with the prevailing investment environment and trends.

(5) The Authority shall prepare annual plans for implementing the investment promotion strategy.

Partnership

26. (1) The Authority may enter into partnership or collaboration with any investor and or entity for the purposes of carrying out the objectives of this Act.

(2) The Authority shall be under obligation to consult and seek approval of an Investor in making any decision affecting the investor during execution of contractual obligations

(3) The Authority shall be obligated to ensure conducive and enabling environment that is necessary to ensure smooth performance of the contractual obligation by the Investor

(4) The Authority shall meet its financial obligations to the investor within a reasonable time upon execution of contractual obligations

Entitlement to Certain Licenses

27. (1) An investment certificate shall be in the form set out in the rules and regulations made by the Executive Committee Member under this Act and approved by the County Assembly.

(2) Upon the issue of an investment certificate, the following apply with respect to each license set out in the certificate under sub clause (1)—

(a) the holder of the investment certificate is entitled to have the license issued, subject to any conditions that may be contained in the rules and regulations made by the Executive Committee Member or contained in the investment certificate, upon application made within twelve months after the investment certificate is issued and upon payment of the applicable fee, if any; and

(b) Until the license is issued or twelve months elapse after the investment certificate is issued, whichever occurs first, the license shall be deemed to have been issued subject to the requirement to pay fees under sub clause (3).

(3) The holder of an investment certificate shall pay any fees that would be payable under the relevant legislation for the licenses set out in the investment certificate in respect of the time period commencing on the day the investment certificate is issued and such fees shall be paid within six months after the date of issue of the investment certificate.

(4) The entitlement to licenses under sub clause (2) (a) is for the initial issue of such license only and following that initial issue the laws under which the licenses are issued apply in the same way as they apply to all licenses, including, for greater certainty, with respect to the revocation or renewal of the licenses.

(5) The Board shall facilitate the issue of licenses to which the holder of an investment certificate is entitled under this clause

Access to Land for Investment

28. (1) The County in collaboration with the National Land Commission and upon execution of a lease agreement with an investor shall provide land for investment in any of the priority areas mentioned in the Investment Policy document.

(2) The allocation of land shall be subject to payment of appropriate land rents and rates by the investor.

Prohibition against Discrimination

29. (1) No official, agency, law or other legal authority shall discriminate against investors from a particular country or give special treatment to prospective foreign investors based upon their country of origin or nationality

(2) Foreign investors shall be subject to the same laws that apply to domestic business organizations

PART V –INVESTMENT MANAGEMENT

Investment Principles

30. The Authority shall be guided by the following principles while undertaking any investment–

(a) value for money;

(b) prudence in financial and investment management;

(c) efficiency;

(d) economy;

(e) competitiveness in approach to business; and

Investment Powers

31. Subject to any written law on governance of public investments, the Authority shall have powers to—

(a) establish subsidiaries, holding entities or joint ventures for undertaking any business venture for the purposes of realizing its objectives;

(b) invest in property or real assets, bonds, securities, bank deposits, trust funds, Treasury Bills or any investment venture approved by the County Treasury.

Capitalization

32. (1) Subject to the approval of the County Executive Committee and where applicable the county assembly, the Authority may raise capital by way of–

(a) loans;

(b) floating bonds;

(c) shares;

(d) receiving grants;

(e) sale of assets or property;

(f)reinvestment of surplus;

(g) appropriations from the county assembly;

(h) any other way as may from time to time be approved by County Treasury.

(2) The Authority shall not borrow money by way of loans or float any bonds or shares unless such borrowing is related to capital investments.

(3) Notwithstanding subsection (2), the Authority may borrow short-term loans for the purposes of maintaining sufficient cash flow in accordance with Public Financial Management Act, 2012.

Investment Strategy and Plan

33. (1) The Authority shall prepare a ten-year corporate investment strategy and plan within four months after the Board is constituted which shall be forwarded to the County Executive Committee for approval.

(2) The Executive Committee Member shall, within fourteen days of the approval of the corporate strategy and plan by the County Executive

Committee, transmit it to the clerk of the county assembly for tabling before the county assembly for consideration and approval.

(3) The investment strategy and plan shall provide among others for

(a) source of investment capital;

(b) targeted investment opportunities;

(c) investment portfolio;

(d) expected return on capital or investment;

(e) specific investment projects and their respective projects appraisals including rate of return on investment or capital employed;

(f)estimated cost of the investments;

(g) any other matter as the Executive Committee Member may prescribe.

(4) The Authority shall not undertake any investment unless it is in accordance with the investment strategy and plan.

(5) The Authority may review the investment plan or strategy after each year in order to align it with prevailing market and investment trends.

(6) The authority shall prepare long term development plans in line with the County Integrated Development Plan (CIDP)

Investment or Project Appraisal and Financial Analysis

34. The Authority shall not undertake any investment or project unless it has undertaken an investment or project appraisal and financial analysis in accordance with the prescribed rules and regulations as guided by a prudent investment analysis.

Sustainability, Profitability and Competitiveness

35. (1) The Authority shall institute measures to ensure that—

(a) its operations and investments are sustainable and profitable;

(b) it is competitive in all its investment ventures.

(2) The Authority shall undertake an assessment after every two years to measure the sustainability, profitability and competitiveness of each investment venture.

(3) Notwithstanding subsection (2), the Executive Committee Member may require at any time the Authority to undertake the assessment stipulated under subsection (2) in relation to any investment

venture where the Executive Committee Member is of the opinion that the venture does not meet the required threshold for sustainability, profitability and competitiveness

(4) The Executive Committee Member may in consultation with the Board require the assessment under subsection (3) to be undertaken by an independent person or entity.

(5) Where an investment venture ceases to be sustainable, profitable or competitive, the board with approval of the executive may—

(a) restructure the investment;

(b) merge the investment with other investments; or

(c) terminate the investment by way of sale, disposal, transfer or liquidation where the investment was carried out by a subsidiary as the sole business

Financial Sustainability

36. The Authority shall maintain the prescribed —

(a) asset base to enable it realize its objectives;

(b) liquidity ratios;

(c) debt service plan;

(d) any other information that the Executive Committee Member may from time to time prescribe.

Dividend Policy

37. (1) The Authority shall establish a dividend policy, which shall be reviewed annually

(2) The dividend policy shall stipulate among others for

(a) the prevailing business conditions under which dividend may be paid out;

(b) minimum percentage of annual dividend payout to the County Government;

(c) any other matter as the Executive Committee Member prescribe.

PART VI—PENALTIES AND OFFENCES

Penalties

38. Any amount that is due and payable to the Authority will attract such penalties as prescribed in the rules and regulations.

Offence of Misleading the Authority

39. A person who submits false or misleading information to the Board for the purposes of obtaining an investment certificate or obtaining any assistance from the Board is guilty of an offence, and upon conviction is liable, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or both.

Improperly Divulging Information

40. A person who, without lawful excuse divulges detrimental information acquired in the course of acting under this Act is guilty of an offence and is liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or both.

PART VII—GENERAL PROVISIONS

Regulations

41. (1) The Executive Committee Member may make such rules and regulations with regard to the better carrying out of the objects, purposes and functions of this Act including specific investment sectors or particular investments, the procedures for the issue of licenses, certificates and permits to investors, penalties and any other matters required to be carried out under this Act.

(2) Without prejudice to the generality of subsection (1), the rules and regulations may-

(a) prescribe for the guidelines for undertaking investment or project appraisal;

(b) prescribe the matters related to dividend policy, and

(c) prescribe matters related to investment plan and strategy.

Transfer of Assets

42. (1) The County Executive Committee shall identify property or assets owned by the County Government that shall be transferred to the Authority for the purposes of implementing this Act subject to approval by the County Assembly.

(2) The property and assets transferred under this section shall be registered under the name of the Authority.

Dispute Resolution

43. (1) In the event of any disagreement regarding any matter on investments in the County, all efforts shall be made through mutual discussion to reach an amicable solution.

(2) Any dispute between an investor and the County in respect to which this Act applies which is not amicably settled through mutual discussions may be submitted at the option of the aggrieved party to arbitration under the provisions of the Arbitration Act.

FIRST SCHEDULE

PROVISIONS AS TO THE CONDUCT OF BUSINESS ANDAFFAIRS OF THE BOARD

Vacation of Office

1. A member of the Board other than the County Government officers may—

(a) at any time resign from office by notice in writing to the Executive Committee Member;

(b) be removed from office by the Executive Committee Member or the Governor in the case of the chairperson, if the person

(i) has been absent from three consecutive meetings of the Board without the permission of the chairperson;

(ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;

(iii) is convicted of an offence involving dishonesty or fraud;

(iv) is adjudged bankrupt or enters into a composition scheme of arrangement with his creditors;

(v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a member of the Authority;

(vi) fails to comply with the provisions of this Act relating to disclosure;

(vii) Commits acts of Gross misconduct; or

(viii) is in serious violation of the Constitution or any other written law.

Meetings

2. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of subparagraph (1), the chairperson, and upon requisition in writing by at least three members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be four members including the chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board 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.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members.

Conflict of Interest

3. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

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 Board 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.

(2) A member of the Board shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member or employee of the Board.

(3) Where the Board becomes aware that a member has a conflict of interest in relation to any matter before the Board, the Board shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the chairperson has a conflict of interest he shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the Executive Committee Member in writing.

(5) Upon the Board becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Board and the member with the conflict of interest shall not vote on this determination.

(6) Where the Board determines that the conflict is likely to interfere significantly with the member's proper and effective performance as provided for in subparagraph (1), the member shall resign unless the member has eliminated the conflict to the satisfaction of the Board within thirty days.

(7) The Board shall report to the Executive Committee Member any determination by the Board 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 Board.

(8) The annual report of the Board 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 Board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

Code of Conduct

4. (1) Within twelve months of the commencement of this Act, the Board shall adopt a code of conduct prescribing standards of behavior to be observed by the members and staff of the Board in the performance of their duties.

(2) Subject to sub-paragraph (1), before adopting any code of conduct or making any substantial amendments to an existing code of conduct, the Board shall publish the proposed code or amendments in the *Gazette* and in a newspaper circulating nationally, inviting public comments.

(3) The Board shall include in its annual report a report on compliance with the code during the period covered by the annual report.

(4) The code of conduct adopted or prescribed under this paragraph shall be binding on the Board and its staff.

Execution of Interest

5. Any contract or instrument which, if entered into or executed will be construed to have been executed by the authority as a body corporate Must be under seal and shall be entered into or executed on behalf of the Board Only by a person authorized by this Act to be custodian of the seal or with a written delegated authority to do so.

Minutes

6. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

MEMORANDUM OF OBJECTS AND REASONS

The Bill aims at establishing the legal and institutional framework for county investments in order to inter alia enhance financial and economic prudence in County Government investments and create an efficient and effective Authority to manage County Government investments. The Bill, therefore, establishes the KAJIADO County Investment Authority for the purposes of promoting and coordinating investments undertaken in the county. The Bill will enable the county government to efficiently and effectively promote the county as an investment destination.

PART I of the Bill provides for the preliminary, which include the short title of the proposed investment legislation and the interpretation of terms used in the Bill. It also provides for the purpose of the Bill, which include enhancement of investment promotion in the county and facilitation and coordination of investments in the county.

PART II of the Bill proposes to establish the Kajiado County Investment Authority as a body corporate, its composition, objects, functions and powers. The Authority is charged with the responsibility of identifying investment opportunities in the county, promoting and facilitating investments in the county, undertaking business ventures in the County and to act as the focal agency on matters related to investments in the County. The Part also vests the management of the Authority to the Board of Directors, which consists of eight members including the Managing Director who is an ex officio member. It also provides for the administration of the Authority and also imposes a requirement for the Authority to prepare annual report in order to enhance accountability.

PART III of the Bill provides for finances of the Authority. It stipulates that the finances of the Authority include moneys appropriated by the county assembly, loans, grants or revenues realized from the

Authority's investments. The Part also obligates the Authority to maintain accounting and financial records as well as preparing financial records for auditing.

PART IV of the Bill provides for investment promotion, incentives, licenses, certificates and permits to investors. The part obligates the Authority to prepare 10-year investment promotion strategy that should contains among others for the source of investment capital, investment portfolio, targeted investment opportunities and cost of investments. It also requires the Authority not to undertake any investment promotion unless it is projected in the plan.

PART V of the Bill provides for the investment management. It provides for investment principles that shall guide the Authority as well as investment powers of the Board. It goes further to provide for

capitalization, investment strategy and plan, dividend policy as well as partnership. It also provides for sustainability, profitability, and competitiveness of investments.

PART VI of the Bill provides for offences under the Act which includes giving false or misleading information and improperly divulging information.

PART VII of the Bill provides for general provisions. It empowers the Executive Committee Member to make regulations for better implementation of the Act. The Part also provides for the transfer of assets that may be set aside for investments for the purposes of investing under the Act.

MARTIN KIMEMIA,
Chairperson, Trade, Investments, Co-operatives and Enterprise Development Committee.