REPUBLIC OF KENYA

BARINGO COUNTY GOVERNMENT

THE BARINGO COUNTY PROPERTY RATES BILL 2014

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THE BARINGO COUNTY PROPERTY RATES BILL 2014

A Bill of the County Assembly of Baringo is to provide for the imposition of rates on land and buildings in Baringo County, and for connected purposes

Enacted by the Baringo County Assembly

Short title and commencement

1. (1) This may be cited as the *Baringo* County Property Rates Bill 2014.

(2) This Bill comes into operation one month after enactment by county assembly.

Application of Bill

2. (1) This Bill applies to all rateable property in the Baringo County.

Interpretation

3. In this Bill, unless the context otherwise requires:

"agricultural rental value rate" has the meaning assigned to it in accordance with clause 1of Schedule 2;

"area rate" has the meaning assigned to it in accordance with clause 1 of Schedule 1;

"improvement rate" has the meaning assigned to it in clause 2 of Schedule 3;

"land"includes any improvements on, in or under the land;

"prescribed" means prescribed by the rules made under this Bill;

"rate" means a rate imposed under this Bill;

"rateable owner" has the meaning assigned to it in clause 1 of Schedule 4

"rateable property "has the meaning assigned to it in clause 2 of Schedule 4

"rating area" means:

(a) an area for which a form or method of rating is or may

be adopted; or

(b) an area for which a rate is or may be imposed;

“County Government” means Baringo county government;

“receiver of revenue”means the receiver of revenue designated in respect of taxation under section 157 of the Public Finance Management Act 2012;

“site value rate” has the meaning assigned to it in clause 1 of Schedule 3;

"the valuer" means any person or authority prescribed by or under any law for carrying out valuation of land for the purpose of imposing rates on land so valued.

“valuation roll” means any valuation roll prepared under section 5 of the Bill

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

Forms of rating

4. (1) The forms of rating are:

(a) an area rate as provided for in Schedule 1;

(b) an agricultural rental value rate as provided for in Schedule 2;

(c) a site value rate or an improvement rate as provided for in Schedule3.

(2) One or more forms of rating must be adopted for the purposes of imposing a rate under section 5.

Valuation of Rateable property

5 (1) Baringo County shall from time to time, but at least once in every five years or such longer period as the County Executive Committee Member for Finance may approve, cause a valuation to be made of every rateable property within the County in respect of which a rate on the value of land is, or is to be imposed, and the values to be entered in a valuation roll.

(2) The County Government shall, either on their own initiative or at the request of any person, from time to time and at any time cause a valuation to be made as at the time of valuation of—

any rateable property omitted from the valuation roll;

any new rateable property;

any rateable property which is subdivided or consolidated with

other rateable property; or

any rateable property which, from any cause particular to such rateable property arising since the time of valuation, has materially increased or decreased in value, and include such valuation in a supplementary valuation roll.

(3) Where part of any rateable property not separately valued in a valuation roll is or may be subject to a special rate under any law providing for the imposition of rates on land by County Government, it shall be lawful for the County Government from time to time and at any time to cause an apportionment of the value of that property appearing in the valuation roll as between the part thereof which is or may be subject to a special rate and the remaining part to be made and inserted in a supplementary valuation roll.

(4) County Government shall cause a supplementary valuation roll to be prepared as often as may be necessary and (unless no alterations or additions to the valuation roll are required) at least once in each of the years following the year of valuation.

Valuer

6. (1) The county executive member responsible for lands may appoint one or more county public officers within the meaning of the County Governments Act, 2012 or other persons to value land for the purposes of preparing a draft valuation roll or draft supplementary valuation roll.

(2) Valuer to have power of entry and inspection and to obtain information for the purpose of preparing a draft valuation roll or draft supplementary valuation roll, the valuer shall, on production of written authority signed by the County Secretary, have power to enter at all reasonable hours by day into and upon, and to inspect, any land within the area of the County in respect of which a rate on the value of land is, or is to be, imposed, and shall also have power to inspect and make extracts from all registers and other records or any deeds or instruments belonging to or in the custody or possession of any public officer or any person, in which are contained particulars of any land, whether that person is or is not interested in the land.

(3) Any person who wilfully hinders or obstructs a valuer in the exercise or attempted exercise of the powers conferred on him under this section shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings.

(4) The valuer may, by notice in writing, require the rateable owner or the occupier of any land to make a return containing such written particulars in regard to that land as may be necessary to enable the valuer to prepare a draft valuation roll or draft supplementary valuation roll accurately; and any rateable owner or occupier who neglects to furnish the particulars within fourteen days after being called upon to do so shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings, and any person who furnishes to any valuer a false statement of value or of any other particulars aforesaid shall be guilty of an offence and liable to a fine not exceeding one hundred and fifty thousand shillings.

(5) No person convicted of an offence under this section shall thereby become exempt from liability to supply any particulars lawfully demanded by the valuer.

(6) The valuer shall prepare a draft valuation roll or draft supplementary valuation roll in such manner as to show to the best of his knowledge and opinion in respect of every rateable property included therein--

a) the description, situation and area of the land valued;

b) the name and address of the rateable owner;

c) the value of the land;

d) the value of the unimproved land;

e) the assessment for improvement rate :

Provided that, on application, by County Government, the County Executive Committee member for Lands may declare in writing that the valuer, in preparing any draft valuation roll, need neither value nor include in the roll the value of the land or the assessment for improvement rate, as required by paragraphs (c) and (e) respectively, and the valuation roll and all supplementary valuation rolls prepared during the currency of that valuation roll shall be deemed to be valid and proper valuation and supplementary valuation rolls notwithstanding that they do not contain any such valuations or that the valuations have not been made.

Imposition of a rate

7. (1) A rate is imposed in respect of each year on all rateable property in the county.

(2) Subject to subsection (3), the form of rating adopted for the purposes of imposing the rate under subsection (1) is a site value rate.

(3) The county assembly may adopt one or more of the other forms of rating referred to in section 4 and may do so under the Bill providing for annual county finances or such other Bill as the county assembly determines.

(4) Different forms of rating may be adopted for different rating areas.

Amount of a rate payable

8. (1) The amount of a rate that is payable is to be determined each year by the County Assembly in the County Finance Bill.

(2) Without limiting subsection (1), the wording set out in Schedule 4 may be used by a County Assembly to determine the amount of a rate that is payable.

Deemed amount of rates

9. If the county assembly does not determine the amount of a rate payable for a particular year, then the amount of the rate payable for that year is deemed to be the amount of the rate that was payable for the immediate preceding year.

When rates become due and payable

10. (1) A rate becomes due on 1 January or such other prescribed date of each year.

(2) The County Government must by notice in the county Gazette specify the date on which a rate becomes payable and may publish that date in a newspaper circulating in the county.

(3) For the purposes of the Bill, the valuation roll or any supplementary valuation roll in force on the day on which any rate becomes payable is conclusive evidence of all matters included in such roll.

Liability for payment of rates

11. (1) The ratable owner of any land at the date when a rate is imposed on that land becomes payable is liable for payment of the amount of the rate.

(2) 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.

(3) 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.

Collection of rates

12. (1) Rates must be paid to the receiver of revenue or any other person authorised by the County Government to collect rates.

(2) Rates are payable:

(a) by electronic transfer of funds or such other ways as are approved by the receiver of revenue; or

(b) At the offices of the County Government or at any other place as is determined by receiver of revenue.

(3) The receiver of revenue must issue a receipt for the payment of any rates to the person who paid the rates.

Discount- for early payment of rates

13. The County Government may allow a discount as approved by the county assembly on any rate paid in full on or before the day on which the rate becomes payable.

Penalty payable on late payment of rates

14. The County Government may charge interest at a rate approved by the county assembly on any amount of a rate remaining unpaid after the day on which the rate became payable.

Recovery of rates

15. (1) If any rate or any part of a rate remains unpaid after the day on which the rate became payable, the rate or part of the rate, as the case requires, and any interest on any such unpaid rate or part as provided for in section 12, is recoverable in a court of competent jurisdiction as a debt due and owing to the County Government from the person liable for payment of the rate.

(2) The receiver of revenue is authorised to sue for and recover the debt for the County Government.

(3) A certificate signed by the receiver of revenue and certifying that:

(a) an amount of rates is or was due and payable on or before a certain date; and

(b) the amount or a part of the amount has not been paid on or before that date;

is admissible as evidence against the defendant in proceedings under this section, and is prima facie evidence as to the matters certified.

Recovery of rates from persons paying rent

16. (1)If any rate or any part of a rate remains unpaid after the day on which the rate became payable, the County Government

may serve a written notice under subsection (2) upon any person paying rent to the owner of the land in respect of which such rate was imposed.

(2) The written notice:

(a) is to state the amount of such arrears, which may include interest calculated in accordance with section 12; and

(b) is to state that all future payments of rent (whether already accrued due or not) by the person paying the rent are to be made directly to the County Government until such arrears and interest have been paid in full.

(3) The notice operates for purposes to transfer to the County Government the right to recover, receive and give a discharge for such rent.

Rates chargeable on property

17. (1) Any rate due, together with interest calculated in accordance with section 12, is a charge against the land on which the rate was imposed.

(2) If the title to such land is registered under any law relating to the registration of title to land, the County Government may deliver a notification of such charge, in the prescribed form, to the registrar who must register it against the title to that land and the charge takes priority in accordance with such law.

Statement of payment of rates and other charges

18. The County Government may, upon payment of the prescribed fee by any person, issue to that person a statement of the current status of the payment of rates for an area of land.

Publication and service of documents

19. Documents are to be published, sent or served for the purposes of this Bill in accordance with the requirements of section 16 of the Baringo County Government County Revenue Administration Bill, 2014.

Power to make rules

20. (1) The county executive member responsible for finance may make rules generally for the better carrying out of the provisions and purposes of this Bill.

(2) Without limiting subsection (1), rules may be made for the following purposes:

a) collection of rates;

b) exemption, waiver or reduction of rates;

c) prescribing fees for services;
d) prescribing forms;
e) publication and service of notices and other documents.

(3) Different rules may be made in respect of different forms of rating or different rating areas.

Savings

21. (1) If, immediately before the coming into operation of this Bill, there is in force under any law a form or method of rating in respect of any area of the county which the county assembly is empowered to adopt under this Bill, that form or method of rating is adopted by reference under this Bill and continue to apply in respect of that area, subject to such modifications (if any) as may be necessary to bring such form or method of rating into conformity with the provisions and requirements of this Bill and any rules made under this Bill.

(2) Any rules, in force immediately before the coming into operation of this Bill, are adopted by reference under this Bill and continue in force for the purposes of this Bill, subject to such modifications (if any) as may be necessary to bring such rules into conformity with the provisions and requirements of this Bill.

(3) A valuation roll or supplementary valuation roll that would have been in force immediately before the coming into operation of this Bill in respect of the county or a part of the county, is deemed to be in force for the purposes of this Bill as if that valuation roll or supplementary valuation roll were made in compliance with this Bill.

Schedule 1 – Area Rate

Section 4(1) (a)

Area rate

(1) An area rate is a rate imposed on an area of land, and the county assembly may for an area rate 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;

(f) Such other method of rating upon the area of land or buildings or other immovable property as the county assembly may approve; and the county assembly may adopt different forms of rating for different rating areas.

Schedule 2 –Agricultural rental value rate

Section 4(1) (b)

Agricultural rental value rate

An agricultural rental value rate is a rate imposed on the annual value of agricultural land.

Schedule 2 definitions

In this Schedule, “agricultural land”and “annual value”have the same meaning as in the Property Rates Bill.

Schedule 3 – A site value rate or an improvement rate

1. Site value rate

A site value rate is a rate imposed on the value of unimproved land as appearing in a valuation roll or supplementary valuation roll.

2. Improvement rate

An improvement rate is a site value rate in combination with a rate on the assessment for improvement rate as appearing in a valuation roll or supplementary valuation roll.

Schedule 4 – Rateable owner and rateable property

1. Rateable owner

The person (in this Bill referred to as the rateable owner) in respect of any rateable property who—

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

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; or

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

in the case of property situated in any sub-county, area or place to which the Land Titles Act has been applied, but being property in respect of which no certificate of ownership has, at such date as afore- said, 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

subject to paragraph (b), in the case of Trust land vested in the county which receives the rent therefor, or which would receive the rent if the land were leased; or

is the lessee from 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.

2. Rateable 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 County Government;

(b) public land;

(c) Community land; and

(d) any land used for the purposes of public cemeteries; crematoria and burial or burning grounds; public institutions for the treatment of the sick;

Schedule 5–Determining the amount of a rate that is payable

Section 8

For the purposes of section 8 of the Baringo County Property Rates Bill 2014, the amount of a rate payable for a rateable property will be prescribed from time to time by the Annual County Finance Bill.

MEMORANDUM OF OBJECTS AND REASONS

Article 209 (3) of the Constitution provides for the imposition of property rates by the County Governments.

The Bill gives effect to that exclusive county taxing power by providing for the imposition and collection of property rates. The Bill relies on the property valuations in place under the national Valuation for Property Rates Bill (Cap 266).