THE GARISSA COUNTY REVOLVING FUND BILL, 2018

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THE GARISSA COUNTY REVOLVING FUND BILL, 2018

A Bill for

AN ACT of County Assembly of Garissa to provide for the establishment of the County Revolving Fund for the promotion of enterprise development and for connected purposes

.

ENACTED by the County Assembly of Garissa as follows -

PART I —PRELIMINARY

Short Title

1. This Act may be cited as the Garissa County Revolving Fund Act, 2018.

Interpretations

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

"Committee" means the County Revolving Fund Committee established under Section 5 of this Act;

"Disability" means any person with physical, sensory, mental and other impairment including any visual hearing, learning, physical incapability, which impacts adversely on social economic or environmental participation.

“Enterprise” means an undertaking or a business concern whether formal or informal engaged in Selling, production of goods or provision of services;

"Executive Committee Member" means County Executive Committee Member for the time being responsible for matters relating Trade and Enterprise Development.

"Fund" means County Revolving Fund established under Section 4 of this Act;

"Fund Administrator" has the meaning attached to it under Section 18 of this Act;

"Sub-County Committee" means the committee established under Section 11 of this Act.

"Youth" means any person between ages 18-35 years of age;

Objects and purposes of the Act.

3. The object and purpose of this Act is to –

a) Promote self-employment among the youth, women and people living with disability;

b) Reduce poverty;

c) Promote enterprise development among youth, women, persons with disabilities and needy persons;

d) Economically empower youth, women and persons with disabilities so as to become self-reliant;

e) To model an alternative framework in funding business driven development;

f) To enhance access to finances for promotion of trade enterprises and ventures at ward level for economic growth;

PART II—ESTABLISHMENT OF THE FUND

Establishment of the Fund

4. (1) there is established a Fund to be known as the Garissa County Revolving Fund.

(2) The Fund shall consist of –

a. sums of money which may from time to time be appropriated by the County Assembly for that purpose;
b. sums of money which represent the repayment of the capital of any loan granted from the fund;
c. income from any investment made by the Fund;
d. Any sums of money borrowed by the Fund with the approval of the County Assembly; and;
e. Any gifts, donations, grants and endowments made to the Fund.

(3) The Fund shall be used for supporting micro and small enterprises in-

(a) providing affordable loans or credit for business capital to persons stipulated under section 13;

(b) providing training and skills development related to enterprise and business development;

(c) providing technical assistance in product and market development;

(d) facilitating technology acquisition, adoption and utilization:

provided that not more than five per cent of the total monies consisting of the Fund shall be utilized for administration of the Fund.

(4) There shall be paid out of the fund any expenditure approved by the Committee and incurred in connection with the administration of the Fund.

(5) The balance of the Fund at the close of each financial year shall be

retained in the Fund and applied for the purposes for which the Fund is established.

PART III—ESTABLISHMENT AND FUNCTIONS OF THE COUNTY REVOLVING FUND COMMITTEE

Establishment and Membership of the Committee

5. (1) there is established the Garissa County Revolving Fund Committee which shall administer the Fund.

(2) The Committee shall comprise —

(a) A chairperson appointed by the Governor;

(b) The Chief Officer for the time being responsible for matters related to trade and enterprise development or a representative appointed by that office;

(c) The Chief Officer for the time being responsible for matters related to finance or a representative appointed by that office;

(d) The Chief Officer for the time being responsible for matters related to youth or a representative appointed by that office;

(e) A representative of persons with Disabilities;

(f) A female person representing women in the county;

(g) a person representing the youth in the county;

(h) The fund Administrator who shall be the secretary to the committee;

(3) The Secretary shall be an ex office member of the Committee and shall have no right to vote at the meetings of the committee.

(4) Members referred to under clause 2 (e), (f) and (g) shall be nominated by their respective organizations and appointed by the County Executive Committee Member for Trade and Enterprise Development.

(5) A person shall not be qualified for appointment as a chairperson of the Committee unless the person-

(a) holds a degree in any field from a recognized university;

(b) meets the requirements of chapter six of the Constitution; and

(c) has at least five years' experience in management and leadership.

(6) A person shall not be qualified for appointment as a member under sub section (2) (e), (f) and (g) unless the person-

(a) holds at least a diploma in any field from a recognized institution;

(b) meets the requirements of chapter six of the Constitution; and

(c) operates a micro or small business enterprise in the county.

(6) The names of the Committee shall be submitted to the County Assembly for approval.

Functions of the Committee

6. The Committee shall —

(a) Receive and consider loan applications;

(b) Forward the list of the eligible applicants to the banks for disbursement of the funds;

(c) Conduct research and maintain data on the eligibility of applicants for funds;

(d) Monitor the credit performance of fund recipients; and

(e) Perform and exercise all other functions and powers conferred on the Committee by this Act.

Vacancy in the office of a Committee Member

7. The office of a member of the committee shall fall vacant —

(a) upon resignation;

(b) If a member is unable to execute the functions of office by reason arising from physical or mental incapacity;

(c) If the member is removed for violating the Constitution or any other law;

(d) upon death;

(e)incompetence;

(e) bankruptcy; or

(f) If the appointing authority or nominating organization revokes the appointment or nomination.

Term of office

8. The members of the committee shall hold office for a term of three years and shall be eligible for reappointment for one further term

Conduct of the Business and Affairs of the Committee

9. (1) The chairperson shall preside over all the meetings of the Committee and in his absence, the members present shall elect one among themselves to preside at that particular meeting or part thereof.

(2) The committee shall meet at least, three times per year but the chairperson shall, upon requisition in writing by at least three members, convene a special meeting of the committee at any time.

(3) All questions at any meeting of the committee shall be determined by a simple majority of the votes of the members present and voting.

(4) In case of equality of votes, the chairperson shall have a casting vote.

(5) The secretary shall cause minutes and proceedings of all the Committee meetings to be entered into the Minute-Book kept for that purpose.

(6) Subject to this Act, the Committee shall regulate its own procedures.

Code of conduct for the committee

10. a committee member shall not use their office:

(1)| To improperly enrich him/herself or others using the fund;

(2)to advance loans to him/herself, business associate, or a corporation, partnership or other bodies in which the member has an interest;

(3) to accept gifts or favours from a person who has an interest that may affect the carrying out of his/her duties.

(4) to divulge Committee's information to unauthorized persons;

PART IV—ESTABLISHMENT OF THE SUB-COUNTY REVOLVING FUND COMMITTEE

Sub-county Committee

11. (1)There is established Sub-County Revolving Fund Committee for each Sub-County.

(2) The Committee shall consist of—

(a) A Chairperson who shall be appointed by the County Executive Committee Member in charge of trade and Enterprise Development.

(b) three persons appointed by the County Executive Committee Member for the time being responsible for matters relating to trade and enterprise development to represent youth, women and persons with disabilities respectively.

(c) The Sub-County Administrator; and

(d) The Sub-County Trade officer, who shall be the secretary;

Functions of the Sub-County Committee

12. Functions of the Sub-County Committees shall be to —

(a) Receive applications at the Sub-County level and submit to the County Revolving Fund Committee.

(b) Verify the eligibility of the applicants at the grass root level;

(c) Advise the Revolving Fund Committee on the applicants' eligibility;

(d) Keep records of all the applications;

(e) Track the loan repayments with the help of the Fund administrator;

(f) Disseminate the necessary information to the grass root levels;

(g) Advise the Executive Committee Member for Trade and Enterprise Development on re-loaning;

(h) Address emerging issues at Sub-County level.

PART V —ADMINISTRATION AND UTILIZATION OF THE FUND

13. Eligibility for accessing the Fund.

(1) For a person to be eligible to access a loan under this Act, the person must be-

(a) a youth, woman or a person with disability; and

(b) operating a micro or small enterprise or intending to start operating a micro or small enterprise business.

(2) Notwithstanding subsection (1), a person who does not qualify under the category stipulated under subsection (1) (a) may be eligible to access loan under this Act if the person is needy, operate a micro or small enterprise and meets the prescribed conditions.

Accessing the Fund.

14 (1) A person who qualifies for funding under Section 13 may apply for a loan to the Committee through the Sub-county Committee in the prescribed form and in accordance with the prescribed conditions.

(2) An application for a loan may be made by an individual or a group of persons subject to the prescribed conditions:

Provided that the conditions shall not be prohibitive to accessing the funds by the intended beneficiaries.

(3) The Executive Member responsible for trade and enterprise development may, in consultation with the Committee prescribe the limits of amounts that can be disbursed as a loan to an applicant.

(4) The Committee may, where an applicant meets the prescribed conditions –

(a) approve the loan application and allocate funds; or

(b) reject the loan application and give reasons to the applicant.

Loan Repayment

15. The Committee shall, in consultation with the Executive Member responsible for trade and enterprise development establish loan repayment conditions.

Utilization of loans.

16. (1) A loan granted under this Act shall only be used for financing an enterprise or business undertaking that was approved by the committee at the time of application for the loan.

(2) A person who utilizes a loan granted in non-enterprise or business undertaking shall be disqualified from accessing the loan under this Act

No interest on loans

17. No loan shall attract an interest and beneficiaries shall only repay the principle amount.

Fund Administrator

18. (1) there shall be a Fund Administrator of the Fund who shall be designated as such by the County Executive Committee Member for the time being responsible for matters relating to finance.

(2) The Fund Administrator shall —

(a) Subject to the direction of the Committee, be responsible for the day-to-day management of the Fund

(b) Be the Secretary to the Committee.

(c) Record the proceedings and minutes of the committee.

Appointment of financial entity or firm.

19. (1) The County Executive Committee for trade and enterprise development may appoint a financial entity or firm to administer the Fund on its behalf for the purposes of managing the loan applications and repayments.

Partnership.

20. The Committee may collaborate, consult or enter into partnership with other government or private entities for the purposes of implementing this Act.

Annual Forum.

21. (1) The Committee shall convene an annual forum for all beneficiaries and potential beneficiaries under this Act.

(2) The Forum shall provide a platform for reviewing and evaluating the funding under this Act.

Secrecy

22. No member, officer or servant of the Authority shall disclose any information which he or she has acquired in the performance of his functions as such member, officer or servant to any person except in so far as may be necessary for the performance of such functions or in due compliance with an order of a court of law.

PART VI - FINANCIAL PROVISIONS

Fund Account

23. (1)The committee shall maintain a Fund account in a reputable commercial bank.

(2) The Committee shall maintain a separate account for funds received from Donors and other partners; and comply with such terms and conditions that are conditional to grant finances by the Donor and will where necessary, have special persons appointed to manage such funds.

Signatories to the Bank Accounts

24. (1) A bank account of the Fund shall be opened and maintained at a commercial bank approved by the Executive Committee Member for the time being responsible for finance.

(2) The signatories to the Account of the Fund maintained in accordance with sub-section 1, shall be the Chief Officer for the time being responsible for Trade, Tourism and Enterprise Development, the fund administrator, the chairperson of the County Revolving Fund Committee.

(3) The Fund Administrator shall be mandatory on all cheques and instruments intended for actual release of money from the Fund.

Annual Estimate

25. (1) The Fund Administrator shall submit to the Executive Committee Member for the time being in charge Finance an estimate of its income and expenditure as specified in the budget cycle for approval.

(2) The annual estimates shall make provisions for all the estimates of expenditure of the Fund for the financial year and shall provide for—

(a) The cost of administration including payment of allowances, administration costs and charges for the Funds and other charges whatsoever payable to staff and members of the committee; and

(b) The payment or reimbursement to the members of the Committees of monies in respect of expenses incurred during the attendance of the meetings of the committees.

(3) no expenditure shall be incurred for the purposes of the committee except in accordance with the annual estimates under sub- section (2).

Annual report.

26. (1) The Committee shall prepare or cause to be prepared an annual report which shall be submitted to the County Executive Committee and thereafter transmitted to the County Assembly for consideration.

(2) The report shall provide for among other things-

(a) the performance of the Fund against the set targets;

(b)the types of businesses or enterprises funded under this Act;

(c) the number of beneficiaries;

(d) the rate of repayment of loans disbursed;

(e) challenges faced in the implementation of this Act and mitigation measures taken; and

(f) the success rate of businesses or enterprises funded under this Act;

Data base and Audit

27. (1) There shall be a Database which shall be developed and maintained by the fund administrator and contains information and data regarding all loans awarded and management support services granted.

(2) The accounts of the fund shall be audited as per the law governing public finance management

Records

28. The Fund Administrator shall keep or cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Fund and other statements of accounts as may be necessary to fully disclose the operations of the Fund.

Staff of the committee

29. The department for the time being responsible for matters of Trade, and Enterprise Development may deploy such officers and other staff as are necessary for the proper and efficient discharge of the functions of the Committee under this Act, upon such terms and conditions as the Committee may determine.

PART VII—MISCELLANEOUS PROVISIONS

Diversion of loan funds Prohibited

30. Any beneficiary who diverts loan funds to other activities other than the approved shall be blacklisted.

Regulations

31. The Executive Committee Member for the time being in charge of Trade and Enterprise Development shall with the approval of the County Assembly make regulations for the better carrying out of the provisions of this Act.

MEMORANDUM OF OBJECTIVES AND REASONS

This Bill, seeks to provide a legal framework to establish and administer a fund, to be known as the Garissa County Revolving Fund. It makes provision for establishment of fund to develop micro and small business enterprises in the county.

Part 1 of the Bill provides for the preliminary provisions. The principal object of the Bill is to enhance access to finances so as to promote youth, persons with disabilities and women businesses and enterprises at wards level for economic growth; to generate gainful self-employment for the unemployed locals through empowerment of small and Micro Enterprise

Part II of the Bill establishes the Fund and provides for the sources of the same.

Part III establishes the committee mandated to administer and manage the fund. The Committee will provide overall management, design and oversight over the Fund.

Part IV of the Bill also establishes the Sub-County Revolving Fund Committee as an organ representing the County Revolving Committee at the Sub Counties. The Committee identifies the beneficiaries within the Sub Counties using guidelines set and receive application from applicants;

Part V provides for access and utilization of the Fund. It provides for procedures of accessing the funds and repayment and utilization of the loans granted. It provides that a financial institution may be appointed to administer the Fund.

Part VI obligates the Revolving Fund Committee to prepare an annual report and to convene an annual forum for the beneficiaries of the Fund.

The Bill mandates the executive committee in charge of issues related to trade and enterprise development the power to make regulations to carry out of the provision of the act. The regulations are to be approved by Garissa County Assembly before gazettement. The Bill does not limit any fundamental rights and freedom.

Dated 26th May, 2018