

COUNTY GOVERNMENT OF BUNGOMA

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COUNTY ASSEMBLY OF BUNGOMA  
OFFICE OF THE CLERK

THIRD SESSION

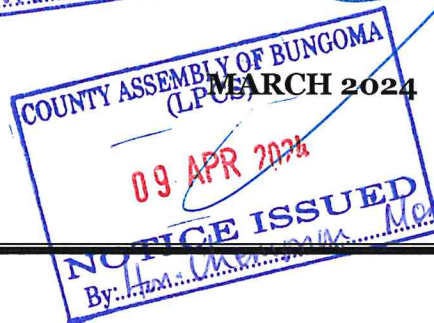
COMMITTEE ON DELEGATED COUNTY LEGISLATION

REPORT ON THE CONSIDERATION OF THE PUBLIC FINANCE  
MANAGEMENT (BUNGOMA COUNTY EXECUTIVE EMPLOYEES' CAR  
LOAN AND MORTGAGE SCHEME FUND) REGULATIONS, 2023



*Delegated*  
*28/3/24*

Clerks Chambers  
County Assembly Buildings  
P.O BOX 1886 - 50200  
BUNGOMA, KENYA



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## **CHAIRPERSON'S FOREWORD**

**Honorable Speaker,**

The County Executive Committee Member for finance, in exercise of the powers conferred by section 116 of the Public Finance Management Act, 2012 made the Public Finance Management (Bungoma County executive Employees' Car loan and Mortgage Scheme Fund) Regulations, 2023.

The Regulations were published vide Legal Notice No.3 of 2023 on 5<sup>th</sup> October,2023,received by the Clerk of the County Assembly on 7<sup>th</sup> December,2023 and tabled before the House on 7<sup>th</sup> December,2023,being outside the statutory timeline contemplated under section 11(1) of the Statutory Instruments Act. They were subsequently referred to the committee on Delegated County Legislation.

The objective and purpose for which the fund is established is to provide a loan for the purchase of motor vehicles for use by the borrower and his/her family and to provide a loan for purchase of land for the development of residential housing, renovation or repair of residential property by members of the scheme.

Pursuant to section 16 of the Statutory Instruments Act, 2013 which requires the committee to confer with the Regulation Making Authority before making its decision, the committee held a meeting with the County Executive Committee Member for finance on 11<sup>th</sup> March 2024 in committee room three at the county assembly building to deliberate on the Public Finance Management (Bungoma County executive Employees' Car loan and Mortgage Scheme Fund) Regulations, 2023.

Further, the committee scrutinized the Regulations in accordance with the Constitution, the Public Finance Management Act (No.18 of 2012) pursuant to which to which they are made ,the Interpretation and General Provisions Act(*Chapter 2*),the Public Finance Management(County Governments) Regulations,2015 and the Statutory Instruments Act,2013 which regulates the making, scrutiny and publication of the Regulations and made various observations which informed the decision to annul in entirety the submitted instrument.

**Stakeholder consultation and public participation**  
**Honorable Speaker,**

One of the key findings of the committee was that the Regulation Making Authority did not conduct public participation or make appropriate consultations with persons who were likely to be affected by the proposed instrument.

Articles 10 and 196 of the Constitution ,sections 5,5A and the schedule to the Statutory Instruments Act, read together with Standing Order 214 requires the Regulation Making Authority to conduct public participation and sufficient consultation with the stakeholders and persons likely to be affected by the Regulations. The County Executive Committee Member for finance submitted during the consultative meeting with the committee that public participation was conducted but provided no evidence to that effect.

Having examined the conformity of the Public Finance Management (Bungoma County Executive Employees' Car loan and Mortgage Scheme Fund)Regulations 2023,published *vide Legal Notice No.3 of 2023* with the Constitution of Kenya, the Interpretation and General provisions Act(Cap 2),the Public Finance Management Act,2012 pursuant to which they are made, the Statutory Instruments Act,2023 and the Public Finance Management(County Governments) Regulations 2015,the committee recommends that the House annuls in entirety the said Statutory Instrument for non-compliance with the Constitution, the relevant Statutes and the County Assembly Standing Orders.



**ACKNOWLEDGEMENT**

**Honorable Speaker,**

I wish to most sincerely thank the Speaker and the Office of the Clerk of the County Assembly for the invaluable support accorded to the committee in the discharge of its mandate.

On behalf of the select committee on Delegated County Legislation and pursuant to Standing Order **214(5) (b)**, it is my pleasure and duty to present to the House, the committee's **Report on the Consideration of the Public Finance Management (Bungoma County Executive Employees' Car Loan and Mortgage Scheme Fund) Regulations 2023.**

Signed..........Date.....28/3/2024.....

**HON.KWEMOI TENDET, MCA, ELGON WARD**

**CHAIRPERSON COMMITTEE ON DELEGATED COUNTY LEGISLATION**

## **1.0. PREFACE**

### **1.1. Establishment and Mandate of the Committee Honorable Speaker,**

The select committee on Delegated County Legislation is established pursuant to **Standing Order 214** and is mandated to consider statutory instruments submitted to the County Assembly for consideration. The committee is expected to consider in respect of any statutory instrument, whether it is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws.

During the scrutiny, the committee is guided by the principles of good governance, rule of law and shall in particular consider whether the statutory instrument-

- a) is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;
- b) infringes on fundamental rights and freedoms of the public;
- c) contains a matter which in the opinion of the Committee should more Properly be dealt with in an Act of Parliament;
- d) contains imposition of taxation;
- e) Directly or indirectly bars the jurisdiction of the courts;
- f) gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;
- g) involves expenditure from the Consolidated Fund or other public revenues;
- h) is defective in its drafting or for any reason, the form or purport of the Statutory instrument calls for any elucidation;
- i) appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
- j) appears to have had unjustifiable delay in its publication or laying before Parliament;
- k) makes rights, liberties or obligations unduly dependent upon non-reviewable decisions;
- l) makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
- m) inappropriately delegates legislative powers;

- n) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- o) appears for any reason to infringe on the rule of law;
- p) inadequately subjects the exercise of legislative power to Parliamentary scrutiny; and
- q) accords to any other reason that the Committee considers fit to examine.

Pursuant to Standing Order 214(5), if the Committee

- a) resolves that the statutory instrument, be acceded to, the Clerk shall convey that resolution to the relevant County department or the authority that published the statutory instrument;
- b) does not accede to the statutory instrument, the Committee may recommend to the House that the County Assembly resolves that all or any part of the statutory instrument, be annulled. If a resolution is passed by the County Assembly within twenty days on which it next sits after the instrument laid before it under paragraph (3), that all or part of the statutory instrument be annulled, the instrument or part thereof shall henceforth stand annulled.

## **1.2. Committee Membership**

**Honorable Speaker**, the Committee on Delegated County Legislation as currently constituted comprises the following members;

1.	Hon. George Tendet	Chairperson
2.	Hon. Ndasaba Dorcas	Vice chairperson
3.	Hon. Wafula Waiti	Member
4.	Hon. Allan Nyongesa	Member
5.	Hon. Martin Chemorion	Member
6.	Hon. Metrine Wilson	Member
7.	Hon. Godfrey Wanyama	Member
8.	Hon. Angeline Rugut	Member
9.	Hon. Jeremiah Kuloba	Member
10.	Hon. Bosire Aggrey	Member
11.	Hon. Job Mukoyandali	Member

## **2.0 CHAPTER TWO**

### **2.1 Consideration of the Public Finance Management (Bungoma County Executive Employees' Car Loan and Mortgage Scheme Fund) Regulations, 2023 (Legal Notice No.3 of 2023).**

#### **Honorable Speaker,**

- 1.** The Public Finance Management (Bungoma County Executive Employees' Car loan and Mortgage Scheme Fund) Regulations 2023(Legal Notice No.3 of 2023) were made pursuant to powers conferred on the County Executive Member for finance by section 116 of the Public Finance Management Act, 2012, hence, it is a statutory instrument within the meaning of section 2 of the Statutory Instruments Act,(No.23 of 2013).
- 2.** The Regulations were published in the *Gazettee* on 5<sup>th</sup> October, 2023, received by the Clerk of the County Assembly on 7<sup>th</sup> December, 2023 and tabled before the House on 7<sup>th</sup> December, 2023 being outside the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.They were subsequently referred to the committee on Delegated County Legislation for consideration.
- 3.** Pursuant to section 16 of the Statutory Instruments Act,2013,which requires the committee to confer with the regulation making authority before making its decision, the committee held a meeting with the County Executive Committee Member for Finance on 12<sup>th</sup> March 2024 in committee room three within the County Assembly buildings.
- 4.** The primary objective of the Public Finance Management (Bungoma County Executive Employees' Car Loan and Mortgage Scheme Fund) Regulations, 2023(Legal Notice No.3 of 2023) is to provide a loan for the purchase of motor vehicles for use by the borrower and his/her family and to provide a loan for purchase of land for the development of residential housing, renovation or repair of residential property by members of the scheme.

## **2.2. Summary of the Public Finance Management (Bungoma County Executive Employees' Car loan and Mortgage Scheme Fund) Regulations 2023 (Legal Notice No.3 of 2023).**

### **Honorable Speaker**

- a) Regulation 1 and 2 provides for the citation and interpretation of the Regulations.
- b) Regulation 3 establishes a Fund to be known as the Bungoma County Executive Employees' Car loan and Mortgage Scheme Fund
- c) Regulation 4 provides for the object and purpose of the Fund.
- d) Regulation 5 provides for the source of capital for the Fund
- e) Regulation 6 establishes management Committee, while regulation 7 and 8 outlines the functions of the committee and meetings of the committee.
- f) Regulation 9 provides for the designation of the Fund Administrator to administer the Fund while regulation 10 provides for the role and responsibility of the Administrator.
- g) Regulation 11 establishes a secretariat to the Fund.
- h) Regulation 12 provides a leeway for the committee to appoint Mortgage Institution while regulation 13 outlines the responsibilities of the mortgage institution.
- i) Regulation 14 provides for the criteria for application of a loan while regulation 15 provides for the requirements for application of a loan.
- j) Regulation 15 outlines the requirement for purchase of a lease hold property.
- k) Regulation 16 provides for the manner of disbursement of a loan while regulation 17 and 18 shows maximum loan disbursement and the criteria for grant of a loan.
- l) Regulation 19 provide for the utilization of monies while regulation 20 and 21 states the period for repayment of a loan and interest chargeable.
- m) Regulation 22 obligates the county executive to have a charge registered on the property financed through a loan granted.
- n) Regulation 23 provides the details of the next of kin while regulation 24 makes provision for the insurance with regard to a motor vehicle or a property financed by a loan from the fund..

- o) Regulation 25 provides for the remedy in case of default in repayment of the loan granted.
- p) Regulation 26 provides for the qualifications and limits of loan eligibility while regulation 27 and 28 provides for dispute resolution and management costs
- q) Regulation 29 makes provision for financing partnership with a legal entity while regulation 30 provides for the management partnership with the scheme or fund from any other public body.
- r) Regulation 31 provides for proper implementation and coordination framework mechanisms of the Fund while regulation 32 provides for monitoring, evaluation and reporting framework in place.
- s) Regulation 33 provides for the annual estimates, accountability and auditing framework in place while regulation 34 provides for the offences and penalties.
- t) Regulation 35 provides the criteria of Winding up the fund while regulation 36 provides for the development of guidelines.
- u) First schedule provides for maximum loan entitlement for members of the scheme.
- v) Second schedule provides for a loan application form.
- w) Third schedule provides for an application form for Mortgage loan.
- x) Fourth schedule provides for a Loan agreement form for the County Executive Employees' Car loan while Fifth schedule provides for a loan agreement form for the County Executive Employees' Mortgage scheme Fund.

### **3.0 CHAPTER THREE**

#### **3.1 COMMITTEE OBSERVATIONS AND RECOMMENDATIONS**

##### **3.1.1 Committee Observations**

**Honorable Speaker,**

Following a comprehensive scrutiny of the Regulations, the committee made the following observations:

##### **Statutory timelines**

**1.THAT** the Regulations were published as LN.No.3 of 2023 on 5<sup>th</sup> October,2023 and submitted to the Clerk of the County Assembly on 7<sup>th</sup> December 2023.Therefore,these Regulations were not submitted for tabling at the County Assembly within the statutory timelines stipulated under section 11(1) of the Statutory Instruments Act,(No.23 of 2013).This implies that pursuant to section 11(4) of the Statutory Instruments Act,(No.23 of 2013),it ought to have ceased to have effect on the last day for it to be so laid ,hence lapsed by operation of law.

##### **Public participation/consultation**

**2.THAT** Articles 10 and 196 of the Constitution ,sections 5,5A and the schedule to the Statutory Instruments Act, read together with Standing Order 214 requires the Regulation Making Authority to conduct public participation and sufficient consultation with the stakeholders and persons likely to be affected by the Regulations.The County Executive Committee Member for Finance, submitted during the consultative meeting with the committee that public participation was conducted but provided no evidence to that effect.

**3. THAT** the explanatory memorandum submitted alongside the Regulations did not demonstrate the details of the consultations with the public as to the dates and responses as required under the schedule to the Statutory Instruments Act. Therefore, it was not possible for the committee to analyse the extent of public participation and level of consultation conducted as required under sections 5 and 5A of the Statutory Instruments Act and the spirit and letter of Article 10 and 196 of the Constitution. Moreover, the purported explanatory memorandum submitted did not provide for the purpose of the statutory instrument, the legislative context, policy background, consultation outcome, modalities of monitoring and review which would have guided the committee's consideration during scrutiny. Instead, it outlined the memorandum of



objects and reasons of a Bill thus failing to meet the threshold of an explanatory memorandum stipulated under the Statutory Instruments Act.

**4. Contrary to section 13(a) of the Statutory Instruments Act which requires the Statutory Instrument to be in accord with the provisions of the Constitution, the Act pursuant to which it is made or other written law,**

Regulation 21 of the Public Finance Management(Bungoma County Executive Employees' Car Loan and Mortgage scheme fund) Regulations 2023,provides for the interest chargeable on a loan to be a minimum of three percent and a maximum of five percent per annum on a monthly reducing balance inclusive of administrative costs.

Salaries and Remuneration Commission is the only constitutional entity allowed to set and review benefits for all public and state officers under Article 230(4) of the Constitution. Article 2 of the Constitution provides that the Constitution is the supreme law of the Republic and it binds all persons and all state organs at both levels of government. Any law that is inconsistent with the Constitution is void to the extent of inconsistency.

**In the *Gazette Notice No.10348 dated 9<sup>th</sup> August,2023 Vol.CXXV-No.177***,the Salaries and Remuneration Commission advised that state officers in the executive of the County Government are entitled to car and mortgage benefits at an interest rate of 3 %(three percent) per annum for the duration of the loan.

Therefore, Regulation 21 of these Regulations contravenes the advisory role of Salaries and Remuneration Commission as outlined under Article 230(4) of the Constitution.

**5. Contrary to section 13 (h) of the Statutory Instruments Act,certain provisions of the Regulations are defective in drafting or require elucidation as outlined below:**

(i)That Regulation 15 was repeated twice

(ii)That the second schedule provides for a loan application form which does not specifically state that it is a “car loan application form”. The Regulation Making Authority should amend the title of the application form in the second schedule to read “application form for Car loan”.

(iii).There is inconsistency in terms of interest chargeable on a loan. Whereas Regulation 21 provides for the interest chargeable on a loan to be a minimum of three percent and a maximum of five per centum on a reducing balance, the loan application form states that the loan shall attract interest of three percent per annum.

(iv)There is contradiction between Regulation 21(2) and Regulation 28. Where as Regulation 21(2) states that the mortgage institution may charge an interest of not more than four per centum to cover management costs, Regulation 28 provides that the mortgage institution may charge an interest of not more than two per centum per annum of the value of the loan to cover its management cost.

(v)The Regulations do not provide for the interpretation of the word “county executive” as used in Regulation 22. In the same Regulation, it is not clear who has the proprietary interest in the charged property besides the employee or the borrower especially in recognition of Article 40 of the Constitution in respect of the right to property.

**(vi)Some of the provisions in the Regulations have wrong citation or typographical errors. For instance:**

(a) Section 16(2) of the Public Finance Management Act,2012 makes provision for national government deviation from financial objectives and does not make provision for the definition of a County Executive Committee Member as contemplated in the interpretation section of the Regulations under Regulation 2.

(b)The references on the second and the third schedule have been made to regulation 8 (loan application form (r.8) and application form for mortgage (r.8).Regulation 8 makes provision for the meeting of the committee and not loan application.

(c)In Regulation 19(4), wrong reference is made to paragraph (2)(b) which makes provision for purchase of a residential house for occupation of the applicant and not purchase of land.

(d)In Regulation 21(2) reference is made to the mortgage institution appointed under Regulation 7.Regulation 7 states the function of the committee and not appointment of a mortgage institution.

(e)In Regulation 32(4), wrong reference is made to Regulation 34.Regulation 34 provides for offences and penalties and not reports generated.

(f).That the words “That the new fourth schedule be inserted to appear as follows” appearing in the fourth schedule are misplaced.

(g) There is a spelling mistake on applicants declaration form under Part IV of the Regulations. The word “Declabation” should read declaration.

**6. Contrary to section 13(m) of the Statutory Instruments Act, which requires the committee to consider if the Regulations inappropriately delegates legislative powers:**

(a) the County Executive Committee Member for Finance inappropriately delegates powers to the committee established under regulation 7 to develop guidelines relating to the disbursement of the fund and to prescribe other guidelines for use by the fund.

**Regulation 7(e) and (f)** outlines the functions of the committee to include development of guidelines relating to disbursement by the fund and reviewing of guidelines on the fund priorities and criteria for allocation and disbursement of funds to beneficiaries in furtherance of the objects of the Fund respectively. Further, Regulation 36 empowers the Executive Committee Member for Finance to make guidelines for the better carrying into effect these Regulations. Some of the guidelines the County Executive Committee Member for finance is obligated to develop under sub-regulation (2)(a) includes the purchase of the vehicle and the purchase and development of land and residential properties under these Regulations.

Article 94(6) of the Constitution provides that where legislative power has been delegated to a body, the body in the exercise of such powers shall, while making Regulations observe that the regulations made conform to and are within the purpose and objectives for which that authority is conferred; the limits of the authority; the nature and scope of the law that may be made and the principles and standards applicable to the law made under the authority.

**Regulatory Impact Statement**

THAT, the Regulations do not require a Regulatory Impact Statement within the meaning of section 6,7 and 8 of the Statutory Instruments Act as they deal with the interest of county executive employees in respect to the car loan and mortgage scheme fund and have no significant effect on the members of the community who are not county executive employees.

### **3.2 Committee Recommendation**

#### **Honorable Speaker,**

Having examined the conformity of the Public Finance Management (Bungoma County Executive Employees' Car loan and Mortgage Scheme Fund) Regulations 2023, published *vide Legal Notice No.3 of 2023* with the Constitution of Kenya, the Interpretation and General provisions Act (Cap 2), the Public Finance Management Act, 2012 pursuant to which they are made, the Statutory Instruments Act, 2013 and the Public Finance Management (County Governments) Regulations 2015, the committee recommends that the House annuls in entirety the said Statutory Instrument for the following reasons:

- 1. The Regulations were not submitted for tabling at the County Assembly within the statutory timelines stipulated under section 11(1) of the Statutory Instruments Act, (No.23 of 2013).**
- 2. Lack of public participation/ consultation contrary to Articles 10 and 196 of the Constitution, sections 5,5A and the schedule to the Statutory Instruments Act, 2013 and Standing Order 214.**
- 3. Contrary to section 13(a) of the Statutory Instruments Act, 2013, the Regulations are not in accord with Article 230(4) of the Constitution.**
- 4. Contrary to section 13 (h) of the Statutory Instruments Act, certain provisions of the Regulations are defective in drafting or require elucidation.**
- 5. Contrary to section 13(m) of the Statutory Instruments Act, the Regulations inappropriately delegates legislative powers**
- 6. Lack of a detailed explanatory memorandum contrary to section 5A and the schedule to the Statutory Instruments Act, 2013**

**ADOPTION SCHEDULE**

**ANNEXURES**

**Submission Letter**

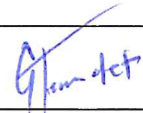

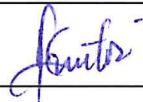

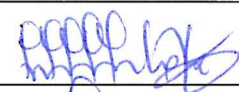

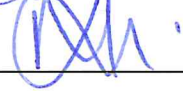


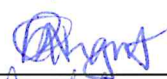
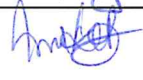
**Invitation letter to CECM Finance**

**Explanatory Memorandum**

**Adoption Minutes**

## ADOPTION SCHEDULE

We the undersigned members of Delegated County Legislation Committee affix our signatures adopting this report with the contents therein

	MEMBERS NAME	DESIGNATION	SIGN
1	Hon. George Tendet	Chairperson	
2	Hon. Ndasaba Dorcas	Vice Chairperson	
3	Hon. Wafula Waiti	Member	
4	Hon. Godfrey Wanyama	Member	
5	Hon. Jeremiah Kuloba	Member	
6	Hon. Martin Chemorion	Member	
7	Hon. Job Mukoyandali	Member	
8	Hon. Metrine Wilson	Member	
9	Hon. Allan Nyongesa	Member	
10	Hon. Angeline Rugut	Member	
11	Hon. Bosire Aggrey	Member	

**MINUTES OF DELEGATED COUNTY LEGISLATION COMMITTEE HELD  
ON 22<sup>ND</sup> MARCH, 2024 AT ATURUKAN HOTEL KITALE**

**MEMBERS PRESENT**

1.	Hon. George	Tendet	Chairperson
2.	Hon. Ndasaba	Dorcas	Vice chairperson
3.	Hon. Wafula	Waiti	Member
4.	Hon. Allan	Nyongesa	Member
5.	Hon. Martin	Chemorion	Member
6.	Hon. Metrine	Wilson	Member
7.	Hon. Godfrey	Wanyama	Member
8.	Hon. Angeline	Rugut	Member
9.	Hon. Jeremiah	Kuloba	Member
10.	Hon. Bosire	Aggrey	Member
11.	Hon. Job	Mukoyandali	Member

**SECRETARIAT**

1.	Sally	Soita	Committee Clerk
2.	Celestine	Moshong'	Legal Counsel
3.	Alex	Cherongis	Hansard officer
4.	Mildred	Indiviza	SAA

**AGENDA**

1. Preliminaries
  - i. Prayers
  - ii. Adoption of Agenda
2. Communication from the Chair
3. Report on the Bungoma County Executive Employees Car Loan and Mortgage Scheme Fund Regulations, 2023



COUNTY GOVERNMENT OF BUNGOMA



22 JAN 2024

COUNTY EXECUTIVE COMMITTEE MEMBER  
DEPARTMENT OF FINANCE AND ECONOMIC PLANNING

Telephone: 0728 - 039039  
E-mail: countytreasury@bungoma.go.ke

Municipal Building  
P.O Box 437- 50200  
BUNGOMA

Our Ref: CG/BGM/FIN/CA/BCECMF/VOL.5(35)

DATE: 22<sup>nd</sup> January, 2024

The Clerk  
County Assembly of Bungoma  
P.O. BOX 1886  
BUNGOMA

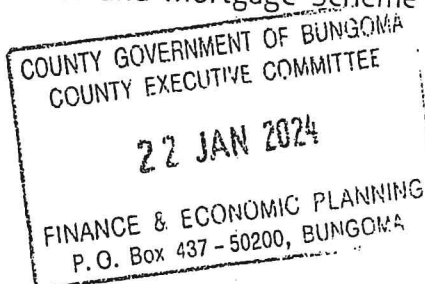
Dear Sir,

**RE: SUBMISSION OF MEMORANDUM ON BUNGOMA COUNTY EXECUTIVE EMPLOYEES' CAR AND MORTGAGE SCHEME FUND, 2023.**

Reference is made to your letter dated 8<sup>th</sup> January, 2024 Ref: BCA/CC/STD/1(62) over the above matter.

Attached herewith, please find our submission of Explanatory Memorandum on Bungoma County Executive Employees' Car and Mortgage Scheme Fund and ten copies of the regulations for your action.

CPA CHRISPINUS BARASA  
CECM, FINANCE AND ECONOMIC PLANNING



Copy to: H. E the Governor  
Speaker of County Assembly  
County Secretary

COUNTY GOVERNMENT OF BUNGOMA



COUNTY EXECUTIVE COMMITTEE MEMBER  
DEPARTMENT OF FINANCE AND ECONOMIC PLANNING

Telephone: 0728 - 039039

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Municipal Building

P.O Box 437- 50200

BUNGOMA

**MEMORANDUM OF OBJECTS AND REASONS**

The Salaries and Remuneration Commission through circular SRC/ADM/CIR/1/13 VOL III (128) dated 14<sup>th</sup> December, 2014 approved the Car Loan and Mortgage Scheme for State Officers and other Public Officers serving in the executive arm of the government with effect on 1<sup>st</sup> January, 2015.

This regulation therefore seeks to establish a legal framework to regulate loans for

- (a) Purchase of motor vehicles for use by the borrower and his/her family
- (b) Purchase of land for the development of residential housing, renovation or repair of residential property by members of the scheme.

**Part I:** Clauses 1 and 2 provides for preliminary matters and includes the short title, commencement and interpretation.

**Part II:** (Clause 3 and 4 establishes the fund and states the purpose and its objective. The objective and purpose for which the fund is established is to provide a loan for the purchase of motor vehicles for use by the borrower and his/her family and provide a loan for purchase of land for the development of residential housing, renovation or repair of residential property by members of the scheme.

**PART III:** Clause 6 establishes the Bungoma County Executive Employees Car Loan and Mortgage Management Committee and provides for meetings of the committee. The committee may appoint a mortgage institution. Appointment of fund administrator and secretariat functions is provided under clause 9 and 10 respectively.

Clause 15 provides for loan application requirement. Clause 17 provides for maximum loan disbursement. Loan repayment and interest is under clause 20 and 21. The Regulations provide for appointment of next of kin, insurance and recourse on default by the borrower.

Clause 32 provides for Monitoring and Evaluation of the fund. It further provides for financial reporting and annual audit of the Fund.

Clause 33 adopts the Offences and penalties provided under the Public Finance



# COUNTY ASSEMBLY OF BUNGOMA

## OFFICE OF THE CLERK

Telephone: 0202651905/0208000663  
Email: info@bungomaassembly.  
Web: www.bungomaassembly.go.ke

P.O. BOX 1886-50200,  
BUNGOMA, Kenya

**BCA/CC/STD/1(62)**

**7<sup>th</sup> March, 2024**

The County Executive Committee Member  
Finance and Economic Planning  
County Government of Bungoma  
P.O. BOX 437-50200  
**BUNGOMA**

### **RE: INVITATION TO APPEAR BEFORE THE COMMITTEE ON DELEGATED COUNTY LEGISLATION**

Reference is made to the above.

The Committee on Delegated County Legislation is in receipt of; The Public Finance Management (Bungoma County Executive Employees Car Loan and Mortgage Scheme Fund Regulations, 2023) which was tabled before the House on 7<sup>th</sup> December 2023.


Pursuant to Standing order number 214 (3) whenever a statutory instrument is submitted to the House pursuant to the Constitution, any law or these standing orders, the statutory instrument shall, stand referred to the **Committee on Delegated County Legislation**.

Standing order 214(5) (a) if the Committee resolves that the statutory instrument, be acceded to it shall issue a statement informing the House and the Clerk shall convey that resolution to the relevant County Department or authority that published the relevant statutory instrument.

Standing Order 214(5) (b) if the Committee does not accede to the statutory instrument, the Committee may recommend to the House that the County Assembly resolves that all or any part of the statutory instrument be annulled.

Pursuant to section 16 of the Statutory Instruments Act 2013, which requires the Committee to confer with the Regulation Making Authority before making its decision, the Committee invites you to have a consultative meeting on **Tuesday 12<sup>th</sup> March 2024, at 12:00 noon** in the County Assembly Precincts to shed more light regarding the Regulations.

CLERK  
BUNGOMA COUNTY ASSEMBLY  
P. O. Box 1886-50200,  
BUNGOMA.

  
Charles W. Wafula  
Clerk to the County Assembly  
**COUNTY GOVERNMENT OF BUNGOMA**

Cc: The County Secretary  
**COUNTY GOVERNMENT OF BUNGOMA**

*Hon Speaker  
Approved for tables  
HMB*

COUNTY GOVERNMENT OF BUNGOMA



COUNTY EXECUTIVE COMMITTEE MEMBER  
MINISTRY OF FINANCE AND ECONOMIC PLANNING

07 DEC 2023

Telephone: 0728-039039  
E-mail: bungomacountygovt@gmail.com

Municipal Building  
P. O Box 437- 50200  
BUNGOMA.

REF: CGB/FIN/CA/CLMSF/VOL.5(29)

DATE: 7<sup>th</sup> December, 2023

THE CLERK  
COUNTY ASSEMBLY OF BUNGOMA  
P.O. BOX 1886  
**BUNGOMA**

**RE: SUBMISSION OF PUBLIC FINANCE MANAGEMENT (BUNGOMA COUNTY EXECUTIVE EMPLOYEES' CAR LOAN AND MORTGAGE SCHEME FUND) REGULATIONS, 2023**

As above matter refers.

Attached herewith, please find 15 copies of draft Bungoma County Executive Employees 'car Loan and Mortgage Scheme Fund Regulations, 2023 for your action.

CPA CHRISPINUS BARASA  
**CECM, FINANCE AND ECONOMIC PLANNING**

- Copy to:
- H. E the Governor
  - ✓ Speaker of County Assembly
  - County Secretary

07 DEC 2023  
MINISTRY OF FINANCE AND ECONOMIC PLANNING  
P.O. BOX 437-50200 BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA  
(LPCS)  
07 DEC 2023  
**TABLED**  
By: *Hon. Chrispinus Barasa*

*Committee of 6  
Delegated legislation for  
proceeding  
table done*

SPECIAL ISSUE

Kenya Gazette Supplement No. 10

1

5th October, 2023

(Bungoma County Legislative Supplement No. 3)

LEGAL NOTICE No. 3

THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

THE PUBLIC FINANCE MANAGEMENT (BUNGOMA COUNTY  
EXECUTIVE EMPLOYEES' CAR LOAN AND MORTGAGE SCHEME FUND)  
REGULATIONS, 2023

ARRANGEMENT OF REGULATIONS

*Regulation*

PART I—PRELIMINARIES

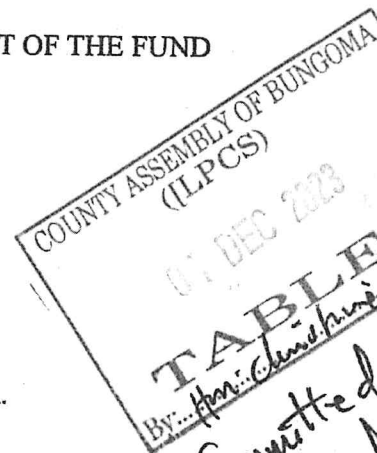
- 1— Citation.
- 2— Interpretation.

PART II —ESTABLISHMENT OF THE FUND

- 3— Establishment of the Fund.
- 4— Purpose of the Fund.
- 5— Capital of the Fund.

PART III — MANAGEMENT OF THE FUND

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- 8— Meetings of the Committee.
- 9— The Administrator of the Fund.
- 10— Roles of the Administrator.
- 11— Secretariat of the Fund.
- 12— Committee may appoint mortgagee Institution.
- 13— Responsibilities of the Mortgage Institution.
- 14— Application for loan.
- 15— Requirements for application of loan.
- 16— Disbursement of loan.
- 17— Maximum Loan Disbursement.
- 18— Criteria for grant of loan.
- 19— Utilization of loan monies.
- 20— Leasehold Property.



*Committed to Committee  
on Delegated Legislation  
Committee for processing  
that table clerk!*

- 21—Repayment of loan.
- 22—Interest Chargeable.
- 23—Charge.
- 24—Next of Kin.
- 25—Insurance.
- 26—Default.
- 27—Grading and limits of loan eligibility.
- 28—Dispute Resolution.
- 29—Investment of Funds.
- 30—Management Costs.
- 31—Financing Partnerships.
- 32—Management Partnerships.
- 33—Implementation and Coordination Framework.
- 34—Monitoring, Evaluation and Reporting Framework.
- 35—Annual Estimates, Accountability and Auditing Framework.
- 36—Litigation, Offences and penalties.
- 37—Winding up.
- 38—Guidelines.

THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 116 of the Public Finance Management Act, 2012, the Bungoma County Executive Committee Member for Finance makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (BUNGOMA COUNTY EXECUTIVE EMPLOYEES' CAR LOAN SCHEME FUND) REGULATIONS, 2023

PART I—PRELIMINARIES

*Citation*

1. These Regulations may be cited as the Public Finance Management (Bungoma County Executive Employees Car Loan and Mortgage Scheme Fund) Regulations, 2023.

*Interpretation*

2. In these Regulations, unless the context otherwise requires—

“Borrower” means a person in receipt of a loan out of the Fund;

“Committee” means the Bungoma County Executive Employees Car loan and Mortgage Scheme Fund Committee established under regulation 6;

“County” means the Bungoma County;

“Financial year” means the period of twelve months ending on the 30th June in each year;

“Fund” means the Bungoma County (Executive Staff) Car loan and Mortgage Scheme Fund established under regulation 3;

“Fund administrator” means any person designated by the County Executive Committee Member, in writing for that purpose

“County Executive Committee Member” has the same meaning as assigned in section 16(2) of the Public Finance Management Act, 2012;

“Member of the scheme” means a State or public officer in the County Public service;

“Applicant” means an employee of the County Executive;

“Property” means a motor vehicle or residential house purchased through a loan from the Fund and includes the land purchased under loan from the Fund on which such house is to be developed;

“valuer” means a person registered as a valuer under the Valuers Act (Cap. 532).

PART II—ESTABLISHMENT OF THE FUND

*Establishment of the Fund*

3. (1) There is established the Fund known as the Bungoma County Executive Employees Car loan and Mortgage Scheme Fund.

(2) Eligible Employees to benefit from the fund are as specified in the First Schedule.



*Purpose of the Fund*

4. (1) The objective and purpose for which the fund is established is to —
- (a) provide a loan for the purchase of motor vehicles for use by the borrower and his/her family;
  - (b) provide a loan for purchase of land for the development of residential housing, renovation or repair of residential property by members of the scheme.

*Capital of the Fund*

5. (1) The initial capital of the Fund shall consist of the monies appropriated in the financial year 2023/24 and any additional capital as the county assembly may appropriate in subsequent financial years.

(2) The interest accruing to the fund shall be credited to the capital of the Fund.

(3) Other sources of capital for the fund shall include—

- (a) income-generated from the proceeds of the Fund;
- (b) grants, donations, bequests or other gifts made to the Fund; and
- (c) monies from any other source approved by the County Assembly.

**PART III — MANAGEMENT OF THE FUND***Management Committee*

6. (1) There is established the Bungoma County Executive Employees Car Loan and Mortgage Management Committee consisting of—

- (a) the Chief officer Finance as the Chairperson of the Committee;
- (b) the Chief officer Public Service Management and Administration as the vice-Chairperson;
- (c) the Chief officer responsible for Housing or his/her representative;
- (d) Director, Human Resource Management;
- (e) a representative of the Government motor Vehicle inspection unit;
- (f) the County attorney or his/her representative;
- (g) the Fund Administrator who shall be the secretary to the Committee.

*Functions of the Committee*

7. The Committee shall—

- (a) oversee the administration of the Fund;
- (b) advise the County Executive Committee Member generally on the operations of the Fund;
- (c) review the estimates of annual revenue and expenditure of the Fund and recommend them to the County Executive Committee Member;
- (d) receive and review reports on the performance of the Fund;
- (e) develop guidelines relating to disbursements by the Fund;

- (f) review guidelines on the Fund priorities and criteria for allocation and disbursement of funds to beneficiaries in furtherance of the objects of the Fund;
- (g) monitor, evaluate, and report on the programmes and activities under the Fund;
- (h) advise on risk analysis and mitigation measures;
- (i) review and approve the financial statements of the Fund before submission to the Auditor-General;
- (j) review and propose new loan programs and products;
- (k) coordinate the development and implementation of a cost management framework;
- (l) review policy on the management of assets, equipment and all properties under the Fund;
- (m) prescribe other guidelines for use by the Fund;
- (n) mobilize resources for the Fund to be paid into the Fund; and
- (o) undertake any other activity that in the opinion of the Committee will promote and facilitate realization of the objects and purposes of the Fund.

*Meetings of Committee*

8 (1) The meetings of the Committee shall be convened by the chairperson or in the absence of the chairperson, by a member designated by the chairperson and shall be convened at such times as may be necessary for the discharge of its functions.

(2) The chairperson shall chair the meetings of the Committee and in the absence of the chairperson, the vice-chairperson and in the absence of the vice chairperson, the members present shall appoint one among them to chair.

(3) The quorum for a meeting of the Committee shall be three members.

(4) The decision of the Committee shall be by simple majority and in the case of a tie; the chairman shall have a casting vote.

*Administration of the Fund*

9. (1) The County Executive Committee Member shall appoint a Fund administrator who shall be an ex-officio member of the Committee and serve as the secretary to the Committee.

(2) The Administrator of the Fund shall be any other Officer of the County Government, not below the rank of a Director designated by the County Executive Committee Member, in writing for that purpose

(3) The Fund administrator shall assist the Committee in administering the Fund and shall —

- (a) process applications for loans in accordance with the existing terms and conditions of borrowing; and
- (b) liaise with the mortgage company, if any, to set up a revolving Fund for the disbursement of the loans.

*Roles and responsibilities of the Administrator*

10. (1) The roles and responsibilities of the Administrator shall include—

- (a) open and operate a bank account with the approval of the Committee and the County Treasury;
- (b) supervise and control the administration of the Fund;
- (c) consult with the Committee on matters relating to the administration of the Fund;
- (d) utilize the interest accruing thereto to defray operating expenses, and may impose any reasonable restriction or other requirements concerning such use of the Fund;
- (e) cause to be kept books of accounts and other books and records in relation to the Fund of all activities and undertakings financed from the Fund;
- (f) enter into and sign agreements with all successful applicants or financial intermediaries providing affordable and accessible credit facilities;
- (g) open loan accounts of all successful applicants or financial intermediaries and maintain a record of the amount disbursed and the balance thereof;
- (h) prepare, sign and transmit to the Auditor-General, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund and showing the expenditure incurred from the Fund, and such details as the Public Sector Accounting Standards Board may prescribe from time to time, in accordance with the provisions of the Public Finance Management Act, 2012, Public Audit Act, 2015, and related Regulations; and
- (i) furnish such additional information as may be considered proper and sufficient for the purpose of examination and audit by the Auditor General in accordance with the provisions of the Public Audit Act.

(2) Every statement of account shall include details of the balance between the assets and liabilities of the Fund, and shall indicate the financial status of the Fund as at the end of the financial year to which they relate.

*Secretariat of the Fund*

11. (1) The Committee in consultation with the County Secretary, may assign such number of staff within the county public service to serve as the secretariat of the fund, as may be necessary to discharge its functions under these Regulations.

(2) The secretariat of the Fund shall be headed by the Administrator, and shall be responsible for the day-to-day running of the affairs of the Fund.

*Committee may appoint Mortgage Institution*

12. (1) Despite regulation 9 (3) the Committee may, if it considers necessary, appoint a mortgage institution to assist the Fund administrator and the committee in the management of the Fund.

*Responsibilities of the Mortgage Institution*

13 (1) The responsibilities of the mortgage institution, if any, appointed under these Regulations shall be —

- (a) to operate individual accounts for each borrower, which shall provide details of recoveries of the loan;

- (b) to charge security on properties acquired through loans from the Fund to protect the interests of the Fund and act as custodian of such charges;
- (c) to disburse cheques for newly approved loans to various vendors, after the necessary documentation is completed by the Committee;
- (d) to issue demand notices where necessary to members through the Fund Administrator;
- (e) upon repayment of the loan, interest and other expenses which may be outstanding, to discharge the charge and release the security documents to the borrower; and
- (f) upon default, to call in the loan and on behalf of the county government, sell the charged property by public auction at the prevailing market place.

*Application for loan*

14. (1) A member of the scheme who wishes to apply for a loan from the Fund shall make an application to the Fund administrator in such manner as prescribed, in the second and third schedules to these regulations.

(2) The Fund administrator shall satisfy himself or herself of the applicant's financial status and capacity to repay the loan applied for in accordance with the laid down requirements, and if satisfied shall forward the application to the Committee for consideration.

(3) If the Committee approves the application, the applicant shall enter into a loan agreement in such form as prescribed in fourth and fifth schedules to these Regulations

(4) The Committee may, where it deems appropriate, appoint an advocate to act on its behalf in respect of transactions relating to the property/asset under these Regulations.

*Requirements for application of loan*

15. (1) An application for a car loan shall be accompanied by the following documents—

- (a) a copy of official records of the motor vehicle from the registrar of motor vehicles;
- (b) a copy of the log book for the motor vehicle;
- (c) a valuation report for the motor vehicle;
- (d) Letter of offer or a sale agreement for the motor vehicle duly signed by the dealer.

(2) An application for a mortgage loan under these Regulations shall be accompanied by the following documents where appropriate—

- (a) copies of the designs of the proposed residential property duly approved by the relevant department within whose area it is to be situated;
- (b) bills of quantities in respect of the proposed development, renovation or repair;
- (c) an official search of the title to the property intended to be purchased;
- (d) a valuation report; and
- (e) a certified copy of the letter of offer or sale agreement relating to the property.

(3) The applicant shall bear the cost of stamp duty and other legal fees.

(4) Where a borrower fails to comply with the requirements of paragraph (2) within the stipulated time, the Fund administrator shall, upon giving the borrower fourteen days' notice, deduct the amount due from the salary of that borrower in such installments as may be appropriate and remit such deductions to meet such costs as may be due.

(5) All legal transactions in respect of the property being purchased shall be conducted by an advocate appointed by the county government.

RP

*Lease hold property*

15. Where the property intended to be purchased through a loan from the Fund is leasehold property; such loan shall be granted where the expiry date of such lease is at least forty-five years beyond the final loan repayment date.

*Disbursement of Loan*

16. (1) A loan granted for the purchase of a motor vehicle shall be released from the Fund in such manner, taking into account the security of the funds.

(2) A log book of a motor vehicle subject to a loan from the Fund shall be jointly issued in the names of the County Executive and the member of the scheme and shall be kept in the custody of the fund administrator until the loan is repaid in full by the member of the scheme.

(3) A loan granted for the development of a residential property under these Regulations shall be released to the applicant in the following phases—

- (a) subject to regulation 9 (3) the first disbursement based on the value of the land on which the residential property is proposed to be developed; and
- (b) The subsequent disbursements based on the rate of completion of the various phases of development as certified by a qualified valuer at the cost of the applicant.

*Maximum loan disbursement*

17. (1) The maximum loan to be granted under these Regulations to a member of the scheme shall not exceed the sum prescribed by the Salaries and Remuneration Commission, and as specified in the First Schedule.

(2) A member of the Scheme shall be required to give prior authority in writing for pension or any gratuity accrued dues to be utilized to clear any outstanding debt in case the member leaves service.

(3) A loan granted to a borrower under these Regulations shall be funded at the rate of one hundred per centum of the value of the motor vehicle or property.

(4) Subject to this regulation, a member of the scheme shall be eligible for the maximum amount of loan specified under paragraph (1) in each term of office to be accessed by the member in a maximum of two disbursements of that term.

*Criteria for grant loan*

18. (1) The maximum loan that may be granted under these Regulations shall be based on the ability to pay, and shall be payable by check-off system.

*Utilization of loan monies*

19. (1) A loan obtained under these Regulations shall be utilized for the purchase of a motor vehicle for personal and family use or the purchase of land, development,

renovation or repair of residential property for the occupation of the applicant and his or her immediate family.

(2) Without prejudice to the generality, regulation (20) (1) a loan disbursed under these Regulations shall solely be utilized for —

- (a) purchase of a motor vehicle for personal and family use;
- (b) purchase of a residential house for occupation of the applicant;
- (c) improvement of a residential house occupied by the applicant;
- (d) development of a residential house for the occupation of the applicant;
- (e) purchase of land and development of a residential house for occupation by the applicant;
- (f) equity release for improvement or development of residential property; and provided that, a loan granted under these Regulations shall not be utilized for commercial purposes.

(3) A loan for the development of residential property may be granted at the discretion of the committee —

- (a) to a member of the scheme who is in possession of a certificate of title to the land on which the development is intended to be carried out; or
- (b) in two installments, for the purchase of the land at which the residential property is to be developed and for the subsequent development of the property.

(4) The amount of the first installment granted for the purchase of land under paragraph 2(b) shall not exceed forty per cent of the maximum loan amount for which the member of the scheme is eligible.

(5) An applicant occupying a county government house who is granted a mortgage under these Regulations shall, within six months of such grant, vacate the government house.

*Repayment of Loan*

20. (1) A loan granted under these Regulations shall be repayable within a period of twenty years or before the loaned attains the age of sixty years, whichever is earlier.

(2) The County Executive Committee Members, Chief Officers and other officer serving on contract shall repay the loan within the contract period

*Interest chargeable*

21. (1) The interest chargeable on a loan shall be a minimum of three percent and a maximum of five per centum per annum on a monthly reducing balance inclusive of administration costs, subject to any directives issued by the Salaries and Remuneration Commission.

(2) The mortgage institution appointed under regulation 7 may charge an interest of not more than four per centum to cover management costs.

(3) The interest charged under paragraphs (1) and (2) of this regulation shall be met by the borrower.



*Charge*

22. (1) The County Executive shall have a charge registered on the property financed through a loan granted under these Regulations and shall be entitled to have its name entered in all documents of title for such property.

(2) The borrower shall —

- (a) not mortgage, charge, surrender the lease or sell or agree to sell or part with possession of the charged property or any part thereof without the prior written consent of the committee meet and pay all rates, rents, insurances and any other outgoings in respect of the property and send the proof of such payments to the Fund administrator; and
- (b) provide a transfer deed duly signed by the borrower and a letter authorizing the Fund administrator to sell the property in case of default in payment.

(3) During the loan repayment period, every borrower shall —

- (a) ensure that the property is used for residential purposes only;
- (b) maintain the property in a satisfactory state of repair; and
- (c) not alter or make any structural alteration to the property, without the approval of the Committee.

(4) All legal documentation and disbursement of funds shall be supervised by the Fund Administrator.

*Next of Kin*

23. (1) The Administrator of the Fund shall file next of kin details as contained in the second schedule, and ensure that next of kin are fully appraised and provided with full disclosure about the loan sought by the applicant.

(2) The Administrator shall ensure that the next of kin assent to property/asset documents that may be used as collateral for the loan.

*Insurance*

24. (1) A borrower of a car loan shall take out and maintain a comprehensive insurance policy for a motor vehicle purchased out of a loan from the Fund at all times until the loan is repaid in full, the cost of which shall be paid out of the Fund and debited in such borrower's account.

(2) A borrower of a loan for purchase of a mortgage shall take out a mortgage protection policy and a fire policy with a licensed insurance firm, the cost of which shall be paid out of the Fund and debited in such borrower's account.

(3) All original documents relating to a motor vehicle or property financed by a loan from the Fund shall be kept in safe custody by the Fund administrator.

*Default in repayment*

25. (1) The Committee may call in a loan, and in default sell the motor vehicle or charged property by public auction where the borrower is in breach of the terms under the loan agreement or a covenant contained in the charge of the mortgage instrument.



*Qualifications and Limits of Loan eligibility*

26. (1) The qualification of members and limits of loan eligibility shall be in accordance with the Salaries and Remuneration Commission guidelines.

(2) Eligibility for a loan under these Regulations shall be for an applicant who has been confirmed in employment provided that public servant on contract terms of service shall have an unexpired contract period of more than twelve months.

*Dispute Resolution*

27. (1) All disputes under these Regulations shall be referred to an arbitrator who shall be mutually agreed upon and appointed by the committee and the mortgage institution.

*Management Costs*

28. (1) The Fund, or where applicable, the Mortgage Institution referred to under regulation 12, may charge an interest of not more than two per centum per annum of the value of the loan to cover its management costs.

*Financing Partnership*

29. (1) The Fund may enter into viable financing or development partnerships with a person or legal entity for the purposes of implementing the objectives and purposes of the Fund.

*Management Partnership*

30. (1) The Fund may enter into viable management partnerships with a scheme or Fund from any other public body.

*Implementation and Coordination Framework*

31. (1) The Administrator of the Fund shall institute proper implementation and coordination mechanisms to ensure the sustainability of the Fund.

(2) Such implementation and coordination framework may include mechanisms for improvements and innovations in —

- (a) lending and product development;
- (b) business development services
- (c) legal and corporate services
- (d) partnerships and resource mobilization
- (e) research, strategy and compliance; and
- (f) Internal audit services.

*Monitoring, Evaluating and Reporting Framework*

32. (1) The Administrator of the fund shall put in place monitoring, evaluation, and a reporting framework.

(2) The monitoring, evaluation, and reporting strategies shall include performance management systems, including but not limited to —

- (a) performance contracting;
- (b) annual work plans and budgets; and
- (c) balanced score cards.

(3) The evaluation mechanisms adopted shall focus on both mid-term and end-term evaluation and reporting.

(4) All reports generated under regulation 34 shall be submitted to the County Assembly, semi-annually and annually.

*Annual Estimates, Accountability and Auditing Framework*

33. (1) The Committee shall cause to be prepared and shall, not later than the end of January in every year, submit to the responsible County Executive Committee Member and the County Treasury for approval, estimates of the Fund's revenue and expenditure for the following financial year.

(2) The financial estimates prepared under subsection (1), shall be accompanied by proposals for funding for loanees, or the implementation of which shall continue during the financial year to which those estimates relate.

(3) Annual estimates and proposals for funding projects shall not be implemented until they have been approved by the County Assembly.

(4) The Committee shall be responsible for the proper management of the affairs of the fund and shall be accountable for the moneys, financial business and management of the fund.

(5) The County Assembly committee for public investments may summon the administrator or a member of the fund to answer on behalf of the fund any question arising from a report, including a special report of the Auditor-General concerning the Fund.

(6) The Fund shall be subject to audit as per the provisions of the Public Audit laws of Kenya.

*Offences and Penalties*

34. Offences and penalties provided under the Public Finance Management Act, No.18 of 2012 shall apply under these Regulations in so far as they may be applicable.

*Winding up*

35. The Fund may be wound up upon a proposal by the county executive committee member responsible for the County Treasury being approved by the county assembly.

*Guidelines*

36. (1) The County Executive Committee Member may make guidelines for better carrying into effect of these regulations.

(2) Subject to these Regulations, the executive committee member responsible for the County Treasury shall issue guidelines on —

- (a) purchase of the Vehicle
- (b) the purchase and development of land and residential properties under this regulations;
- (c) such other matters as may be necessary for the proper management and administration of the Fund.

## FIRST SCHEDULE

## MAXIMUM LOAN ENTITLEMENTS FOR MEMBERS OF THE SCHEME

<i>Job Group</i>	<i>Equivalent Salary Scale/State officer Grade</i>	<i>Maximum Entitlement Car Loan</i>	<i>Maximum Entitlement Mortgage</i>
V	E5	10,000,000	40,000,000
U	F2	6,000,000	30,000,000
T	E4	4,000,000	20,000,000
S	E3	4,000,000	15,000,000
R	E2	3,000,000	10,000,000
Q	E1	3,000,000	10,000,000
P	D5	3,000,000	10,000,000
N	D4	1,500,000	8,000,000
M	D4	1,500,000	8,000,000
L	D4	1,500,000	8,000,000
K	D4	1,500,000	8,000,000
J	10	800,000	6,000,000
H	11	800,000	6,000,000
G	12	800,000	6,000,000
F	13	600,000	4,000,000

## SECOND SCHEDULE

## LOAN APPLICATION FORM (r. 8)

TO: THE FUND ADMINISTRATOR BUNGOMA COUNTY EXECUTIVE  
EMPLOYEE' CAR LOAN AND MORTGAGE SCHEME COMMITTEE

## PART I—APPLICANT'S DETAILS

I ..... of P/No..... a member of  
the Bungoma County (Executive) Car loan and Mortgage Scheme Fund, of ID.  
No..... of P.O. Box.....

Telephone..... Email.....

Details of next of kin:

Name..... JD/No.....

Relationship.....

P.O Box.....

Telephone No. ....

1. Hereby apply for a loan of KSh. .... (.....)  
to purchase a motor vehicle under the Bungoma County (Executive) Car Loan  
and Mortgage Scheme.
2. The loan shall attract interest of three (3%) per annum.
3. I undertake to pay the loan advanced to me together with interest in monthly  
installment until payment in full.
4. I hereby declare that my monthly Basic salary is KSh.....
5. I am also entitled to allowance of KSh.....per month.
6. I undertake that the monthly installments shall be effected by way of monthly  
deductions from my salary and/or any other benefits including allowances and  
gratuity and pension incase of any default.
7. I hereby authorize you to offset any existing facility subject to my loan limit.
8. I hereby authorize the Fund to register the motor vehicle in the joint names of  
Bungoma County and my name, until the loan facility is fully repaid.
9. I undertake to take out a comprehensive insurance cover for the motor vehicle  
throughout the loan period.
10. I further authorize the Fund to cause the premiums for the said insurance cover  
to be debited to my loan account.
11. I bind myself that incase of my default to repay the loan, the Fund shall be at  
liberty to so sell the motor vehicle to offset thc outstanding loan.

Date.....Signature of Applicant.....

PART II—RECOMMENDATION

1. I certify that.....is entitled to a motor vehicle loan of KSh.....(.....) if the salary is not committed in any other way that would affect the repayment of the loan.

2. I certify that the said .....is eligible for a loan of up to KSh. .... in respect of a car loan repayable in full within..... months.

3. I certify that payment of the monthly installments will not cause financial (pecuniary) embarrassment to the said officer (Subject to No. 1 above).

4. You are at liberty to recover the said loan by way of monthly installments upon disbursement.

5. I recommend that .....’s application be approved in full up to a limit of KSh..... (.....) payable in.....months.

6. I recommend that the Executive Committee Member for finance do determine the monthly deductions and the installments payable in the recovery of the loan by a check off system.

Date.....Signed.....

PART III —APPROVAL BY THE FUND ADMINISTRATOR

I hereby approve..... application of KSh.....(.....) in respect of a motor vehicle loan to be paid over months and a further sum of KSh.....(.....) in respect of insurance premium to be repaid over 12 months for each year of the loan. The loan shall be recovered by KSh .....(.....) in monthly installments by way of deductions by check off system.

Date.....Signed.....

PART IV—APPLICANT’S DECLARATION

I .....solemnly swear that I have fully disclosed all matters to the best of my knowledge and belief, and do hereby accept the loan, as approved, with the conditions set out herein, having read and understood the contents therein.

*Signed*..... *Declarant* .....

This.....day of.....20.....

Before me:.....

*Commissioner for Oaths.*

THIRD SCHEDULE

APPLICATION FORM FOR MORTGAGE LOAN (r.8)

PART I—APPLICANT’S DETAILS

TO: The Fund Administrator, Bungoma County Executive Employees Car Loan and Mortgage Scheme Committee

I.....P/No.....

a member of the Bungoma County Executive Employees Car loan and Mortgage Scheme Fund, of ID. No.....of P.O. Box.....

Telephone.....

E-mail.....

Details of next of kin:

Name.....ID/No.....

Relationship.....

P.O. Box.....

Telephone No.....

1. I hereby apply for a loan of KSh .....to purchase property under the Bungoma County Executive Employees Car Loan and Mortgage Scheme.
2. The loan shall attract interest of three percent per annum. I undertake to pay the loan advanced to me together with the interest in monthly installments until payment in full. I hereby declare that my monthly salary is KSh. ....(....) per month.
3. I am also entitled to allowance of KSh..... (.....) per month.
4. I undertake that monthly installment shall be effected by way of monthly deductions from my salary and/or any other benefits including allowances and gratuity and pension in case of default.
5. I hereby authorize you to offset any existing facility subject to my loan limit.
6. I hereby authorize the Fund to register the property in the joint names of Bungoma County and my name, until the loan facility is fully repaid.
7. I hereby authorize the Fund to take out a mortgage protection policy and a fire policy for the mortgage property and to debit the premiums thereof to my loan account.
8. I bind myself that in case of my default to repay the loan, the Fund shall be at liberty to sell the property to offset the outstanding loan.

PART II—RECOMMENDATION

1. I certify that.....is eligible for a mortgage of KSh..... (.....) if the salary is not committed in any other way that would prejudice the repayment of the loan.
2. I certify that the applicant is eligible for a Mortgage of up to KSh..... repayable in full within.....months.

3. I certify that payment of the monthly installments will not cause financial (pecuniary) embarrassment to the said officer (Subjected No. 1 above).
4. You are at liberty to recover the said loan by way of monthly installment upon disbursement.
5. I recommend that .....’s application be approved in full up to a limit of KSh..... (.....) Payable in months Subject to the member having no other loan to the service.
6. I recommend the Executive Committee Member of Finance to determine the monthly deduction, the installment payable in recovery of the loan by a check off system.

PART III —APPROVAL BY FUND ADMINSTRATOR,

I hereby approve.....’s application of KSh. .... (.....) in respect of a mortgage loan to be repaid over ..... Months and a further sum of KSh..... (.....) in respect of insurance premium to be repaid over 12 months for each year of the loan.

The loan shall be recovered at KSh..... (.....) in monthly installments by check off system.

Date.....Signed.....

PART IV —APPLICANT’S DECLARATION

I solemnly swear that I ..... have fully disclosed all matters to the best of my knowledge and belief, and do hereby accept the loan, as approved, with the conditions set out herein, having read and understood the contents therein.

Signed..... Declarant .....

This.....day of.....20.....

Before me:

Commissioner for Oaths

Made on the .....day of ..... in the year.....



FOURTH SCHEDULE

That the new fourth schedule be inserted to appear as follows:

LOAN AGREEMENT FORM FOR THE COUNTY EXECUTIVE EMPLOYEE'S CAR  
LOAN

I.....do hereby acknowledge  
to receive KSh.....(Amount in figures)

(Amount in words).....  
for the sole purpose of purchasing a vehicle.

I further agree that I shall submit to the Committee a logbook bearing the names of the  
County Executive and my official names within 90 days from the date of issuance of the  
loan failure to which the fund administrator shall take the necessary disciplinary action  
against me.

Signed.....ID/ No. ....

Name.....Date.....

Name.....

Signature.....Date.....

FUND ADMINISTRATOR

FIFTH SCHEDULE:

LOAN AGREEMENT FORM FOR THE COUNTY EXECUTIVE EMPLOYEE'S MORTGAGE SCHEME FUND

I.....do hereby acknowledge to receive KSh. ....(Amount in figures) (Amount in words)..... for the sole purpose of purchasing and or building a house.

I further agree that I shall submit to the Committee a Title Deed and official search certificates' bearing the names of the County Executive and my official names within 90 days from the date of issuance of the loan failure to which the fund administrator shall take the necessary disciplinary action against me.

Signed.....ID No. ....

Name.....Date.....

Name.....

Sign .....Date.....

FUND ADMINISTRATOR

Made on the 3rd October, 2023.

CHRISPINUS BARASA, County Executive Committee Member for Finance and Economic Planning.