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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**SIAYA COUNTY BILLS, 2021**

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**NAIROBI, 14th December, 2021**

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**THE SIAYA COUNTY VALUATION AND RATING BILL, 2021**

**A Bill for**

**AN ACT of the County Assembly of Siaya to provide for valuation of property for the purpose of property rates and the imposition, payment and collection of property rates in the Siaya County so as to effect the implementation of Article 209(3) (a) of the Constitution of Kenya, 2010 and for purposes connected therewith and incidental thereto**

**ENACTED** by the County Assembly of Siaya, as follows—

**PART I—PRELIMINARY**

**Short Title**

1. This Act may be cited as the Siaya County Valuation and Rating Act, 2021.

**Application of the Act**

2. The Act applies to all properties within Siaya County.

**Interpretation**

3. In this Act, unless the context otherwise requires;

“Assessment for improvement rate”, in relation to land, means the residual amount found by deducting the value of the unimproved land from the value of the land;

“CECM” means the County Executive Committee Member for the time being responsible for matters related to valuation and rating of property;

“Chief Officer” means the Chief Officer for the time being responsible for matters related to valuation and rating of property;

“County Revenue Officer” means the person for the time being lawfully acting on behalf of the County Government of Siaya to collect rates;

“County 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 acting for the rating authority;

“Department” means the County Department for the time being responsible for matters relating to valuation and rating;

“Director” means the Director for the time being responsible for matters relating to valuation and rating;

“Improvements”, in relation to land, means all work done or material used on, in or under that land by the expenditure of money or labour in so far as the effect of the work done or material used is to increase the value of the land, but does not include machinery, whether fixed to the soil or not;

“Land” includes any improvements thereon, therein or thereunder;;

“Occupier” includes any person in actual occupation of rateable property without regard to the title under which he occupies;

“Rateable owner” means any person or entity occupying or in possession of—

- (a) a registered freehold;
- (b) a registered leasehold for a term not less than twenty- five years;
- (c) is a lessee of public land , under a registered lease of such property holding under a lease, 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;
- (d) in the case of land for which a land registration number or deed plan has been issued under the Survey Act , the person to whom that number or deed plan has been issued; or
- (e) in the case of any other property, a person who is, or reasonably appears to be the lawful possessor or occupier of the property or the person who has a legitimate claim to ownership of the 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 the County Government of Siaya;
- (b) public land as defined and provided for in section 14;
- (c) community land as provided for in section 2 of the Community Land Act, 2016; and
- (d) any land used for any of the purposes specified in section 15 or under any rule made thereunder;

“Rating authority” means the County Government of Siaya;

“Time for valuation” means such date, within a period of twenty-four months preceding the commencement of the financial year in respect of which a valuation roll prepared under section 7 is to come into force, as

may be determined by resolution of a County Executive Committee and approved by the County Assembly to be the date at which all valuations shall be deemed to have been made for the purposes of such valuation roll and of every supplementary valuation roll prepared during the continuance in force of the valuation roll.

**Purpose of the Act**

**4.** The purpose of this Act is to provide for a legal framework for valuing and rating land in order to—

- (a) ensure efficiency, accountability and transparency in administration of valued land for rating;
- (b) promote economic development;
- (c) ensure equity and fairness in land valuation and rating system;
- (d) ensure compliance with payment of rates related to land.

**PART II—ADMINISTRATION**

**County Valuers**

**5.** (1) The County Public Service Board shall appoint one or more persons to value land for the purpose of preparing a draft valuation roll or a draft supplementary valuation roll and other duties incidental to implementation of this Act;

(2) A person shall not be appointed as a County Valuer under this Act unless the person is registered with the Valuers Registration Board, is a full member of the Institution of Surveyors of Kenya and is licensed to practice;

(3) Notwithstanding the generality of sub-section (1) the Department may in accordance with the provisions of the Public Procurement and Assets Disposal Act contract the services of external valuers who are registered with the Valuers Registration Board, are full members of the Institution of Surveyors of Kenya and are licensed to practice;

(4) A Valuer appointed under the provisions of sub-section (3) may be designated as a County Valuer as envisaged in section 6(2) of this Act.

(5) The County Valuers appointed under this part shall be under the Department.

**Duties of County Valuers**

**6.** (1) The County Valuers shall have the following duties—

- (a) value all rateable property within the County;

- (b) prepare the valuation roll of all the rateable properties in the County;
- (c) prepare the supplementary valuation roll of all the rateable properties in the County;
- (d) amend the valuation and supplementary valuation roll;
- (e) monitor the collection of information from owners of rateable properties and other persons for purposes of valuation;
- (f) carry out any other function assigned by the Director for the better carrying out of this Act.

(2) The Chief Officer may in writing, delegate any of the functions under this section to a registered valuer.

### **PART III—VALUATION**

#### **Preparation of a valuation roll**

**7.** (1) The rating authority shall from time to time but at least once in every ten years, cause a valuation to be done within the area of the rating authority for every rateable property in respect of which a rate is to be paid or imposed and the values entered into the valuation roll.

(2) The County Executive Committee Member may in writing extend the application of a valuation roll for an additional year if satisfied that exceptional circumstances exist so as to justify extension.

#### **Amendment of valuation roll**

**8.** (1) The rating authority shall on its own initiative or at the request of any person, from time to time cause the valuation roll to be amended to reflect changes to the particulars on the roll.

(2) The changes in subsection (1) shall be for any of the following purposes—

- (a) to correct a clerical error not affecting valuation;
- (b) to correct any error in the name or address of the rateable owner;
- (c) to record any change in the name or address of the rateable owner;
- (d) to correct any error in the description (including the situation, but not the area) of a rateable property; and
- (e) to correct the description of the situation of any rateable property in consequence of the naming or renaming of a street or from a similar cause.



(3) This section shall not apply to changes required to be made by a supplementary valuation roll.

**Supplementary valuation roll**

**9.** (1) The rating authority 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.

(2) The supplementary valuation roll shall include permitted amendments, alterations and additions to the valuation roll.

(3) A supplementary valuation roll shall be made in respect of a rateable property, if—

- (a) any rateable property is omitted from the valuation roll;
- (b) it relates to any new rateable property;
- (c) any rateable property is subdivided or consolidated with other rateable property since preparation of the valuation roll;
- (d) a change of user has been effected on the property; or
- (e) the market value of the rateable property has substantially increased or decreased for any reason after the last general valuation, other than a substantial increase or decrease attributable to economic circumstances,

and includes such valuation in a supplementary roll.

(4) Supplementary valuation of a property shall reflect the market value of the property determined in accordance with the market conditions that applied as at the date of valuation determined for purposes of the last valuation roll.

(5) For the purpose of collecting property rates, a supplementary valuation roll shall apply from the first day of January of the year following the date of completion of the supplementary valuation roll and continues to apply for the duration of the current valuation roll.

**Contents of Valuation Roll**

**10.** The County Valuer shall cause to be prepared a valuation roll and supplementary valuation roll in such a manner as to determine in respect of every rateable property the following particulars—

- (a) the registered or other description of the property;
- (b) the physical address of the land valued, including the main access road;

- (c) the name and address of the rateable owner;
- (d) the use and permitted use of the property;
- (e) the value of the land;
- (f) the value of unimproved land;
- (g) the assessment for improvement rate;
- (h) such additional particulars as may be determined.

**Power of entry and inspection**

**11.** (1) For the purposes of preparing a valuation roll or supplementary valuation roll, the County Valuer shall on the production of written authority signed by the Director, have power to—

- (a) enter at all reasonable hours by day into and upon a premise, land or property for which a rate is to be imposed;
- (b) inspect any premises, land or property;
- (c) scrutinize any data, information, records, title deed or instrument in possession of a public officer, owner or any person with interest in the land or property.

(2) A person who willfully hinders or obstructs a County Valuer in the exercise of the powers conferred on him under this section shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.

(3) A person to whom this part applies shall, on demand of a person in or on any property identify themselves as an authorized person when entering any property for the purposes of this Act.

(4) The County Valuer may, by notice in writing, require the rateable owner or the occupier of any land to make a return containing such written particulars regarding that land as may be necessary to enable preparation of a valuation roll or 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 two thousand shillings, and any person who furnishes to any County 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 three 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 County Valuer.

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**Basis of valuation**

**12.** (1) The value of land for purposes of preparing a valuation roll or supplementary valuation roll shall be market value of the rateable property without any encumbrances therein which might be expected to be realized at the time of valuation if offered for sale on such reasonable terms and conditions as a bonafide seller might be expected to impose.

(2) In determining the value as provided for under subsection (1), the County Valuer shall have regard to—

- (a) land of similar class, character or position, and to other comparative factors;
- (b) any restrictions imposed on the land;
- (c) the use of the land, under any written law, or approved by the County government being restrictions which either increase or decrease the value of the land.

(3) In arriving at the value of land under this section, the County Valuer may adopt any suitable method of valuation.

(4) When a valuation roll or supplementary valuation roll includes the value of the unimproved land, the value of any improvements and the value of the land, then the value of improvements shall in no case exceed the amount found by deducting the value of the unimproved land from the value of the land.

**Exempt properties**

**13.** (1) No valuation for purposes of any rate shall be made in respect of any land which is used, or, is bona fide intended to be used within a reasonable time, directly and exclusively for any of the following purposes—

- (a) public religious worship;
- (b) cemeteries, crematoria and burial or burning grounds;
- (c) hospitals or other institutions for the treatment of the sick;
- (d) educational institutions (including public schools within the meaning of the Basic Education Act, 2013 (*No.14 of 2013*) whether or not wholly supported by endowments or voluntary contributions and including the residence of students provided directly by educational institutions or forming part of, or being ancillary to educational institutions;
- (e) charitable institutions, museums and libraries;
- (f) outdoor sports;

- (g) National Parks and National Reserves within the meaning of the Wildlife (Conservation and Management) Act (Cap. 376).
- (h) Any other property owned by such a person contained in this Act and any other written law who is exempt from payment of property tax:

Provided that nothing in this subsection shall apply to land used for profit or for residential purposes other than those specified in paragraphs (a) and (d) of this subsection.

(2) For the purpose of this section, the County Executive Committee Member shall make regulations determining the principles upon which any land shall be deemed to be used for any of the purposes specified.

#### **Excluded Public Areas**

**14.** (1) A valuation for the purpose of imposing a rate shall not be made where the exclusive or dominant use of any public land is for one or more of the following purposes—

- (a) museums, art galleries and ancient monuments;
- (b) botanical gardens and arboreta;
- (c) veterinary quarantine areas;
- (d) Railway tracks, including tracks in sidings and shunting yards and signal boxes, water towers and other such buildings or structures essential to the operation of railway tracks, but excluding areas used for passenger or goods stations, offices, workshops, servicing areas, sheds and depots;
- (e) roads and streets which are used as such by the public for vehicular traffic or pedestrian access, whether as of right or not;
- (f) parks and open areas managed and controlled by the County Government for the use of the public;
- (g) aerodromes excluding the areas referred to in subsection (2) except to the extent that the property is used for any residential purpose.
- (h) passenger reception or the handling or storage of goods;
- (i) the offices of airline companies or agencies, immigration and customs offices and premises;
- (j) restaurants, lounges, bars, shops, hangars, workshops, posts and telecommunications installations;

- (k) stores, police stations, animal holding grounds, freight sheds and dumps.

(2) For avoidance of doubt, if the exclusive or dominant use of any public land is for a commercial purpose, the public land is not excluded public property.

(3) In accordance with the procedures prescribed by the regulations, public land or a part of public land may be classified as excluded public property.

(4) For purposes of this section, the CECM shall make regulations determining the principles upon which any land shall be deemed to be used for any of the purposes specified.

**Deposit and Inspection of draft valuation roll and supplementary valuation rolls**

**15.** (1) The County Valuer shall upon satisfaction that the valuations required to be undertaken for the purposes of the valuation roll or supplementary valuation roll have been made and that the valuations are of an acceptable quality, sign the roll, insert the date of completion and transmit the roll to the County Executive Committee Member.

(2) The County Executive Committee Member shall upon receipt of the valuation roll or supplementary valuation roll lay the roll before a meeting of the County Executive Committee of the rating authority. The roll shall thereafter be available at the office of the County Executive Committee Member for public inspection, and any person may, during ordinary business hours, inspect it and take copies of extracts from it subject to payment of a prescribed fee.

(3) The County Executive Committee Member after receipt of the draft valuation or supplementary valuation roll and with the concurrence of the County Executive Committee shall as soon as practicable cause to be published a notice in the Gazette and a newspaper of nationwide circulation containing the following information—

- (a) notification that a valuation roll or supplementary valuation roll has been completed and is open for public inspection;
- (b) when the inspection period starts and ends;
- (c) where the roll may be inspected; and
- (d) period for lodging an objection under the Act.

(4) The inspection period shall be for a period of not less than thirty days starting from the date of publication in the *Gazette*.

(5) The County Executive Committee Member may cause the period for inspection to be extended by notice in the *Gazette* and in a newspaper of nationwide circulation where satisfied that it is necessary to do so.

(6) In addition to the notice given under subsection (3), the County Executive Committee Member may advertise the availability of the valuation roll or supplementary valuation roll in any other appropriate manner.

(7) Without prejudice to the foregoing provisions, within twenty-one days after publishing the notice provided for in sub section (2), the rating authority shall cause to be sent to every rateable owner of a rateable property comprised in the roll a notice of the valuation thereof inserted in the roll, whether or not the new valuation makes any change.

#### **PART IV—OBJECTIONS AND APPEALS**

##### **Objections to draft valuation roll and supplementary valuation rolls**

**16.** (1) An owner of a rateable property or any person (including the rating authority) who has a legal or equitable interest in the property who is aggrieved by—

- (a) the inclusion in, or omission of any rateable property from, any draft valuation or supplementary valuation roll; or
- (b) any value ascribed in any draft valuation roll or draft supplementary valuation roll to any rateable property; or
- (c) any other statement made or omitted to be made in the same with respect to any rateable property,

may, at any time after the publication of the inspection notice and not later than twenty-eight days after the notice is issued object to any matter contained in, or omitted from the valuation roll or supplementary valuation roll in relation to that property.

(2) An objection shall—

- (a) be in relation to a particular property and not against a roll;
- (b) be made within the objection period;
- (c) be in the prescribed form and set out the grounds of the objection;
- (d) be accompanied by the prescribed fee; and
- (e) be lodged with the County Secretary.

(3) No person shall be entitled to argue an objection before the valuation committee unless he has first lodged the objection.

(4) The County Secretary shall within twenty-one days after the date on which the objection is lodged send a copy thereof to the rateable owner of the rateable property to which the objection relates, if that person is not the maker of the objection.

(5) An objection raised under this section shall not affect the liability of a person to pay rates on a property.

#### **Withdrawal of objections**

**17.** An objector may withdraw a duly received objection by notice in writing to the County Secretary before the date fixed for the first sitting of the valuation committee.

#### **Uncontested draft valuation roll and supplementary valuation rolls**

**18.** (1) If on the expiration of the period of twenty-eight days referred to in section 16(1) no objections have been received, or if all objections duly received have been withdrawn the County Secretary shall endorse upon the draft valuation or supplementary valuation roll and sign a certificate to that effect.

(2) The County Secretary shall publish notice that the valuation roll or supplementary valuation roll has been signed and certified under this section.

#### **Establishment of Valuation Committee**

**19.** (1) There is established a Valuation Committee which shall hear and determine objections under this Act.

(2) The Valuation Committee shall be constituted as follows—

- (a) an Advocate of the High Court of Kenya of at least five years' experience in valuation and rating procedures nominated by the relevant LSK chapter who shall be the Chairperson;
- (b) the legal officer for the time being responsible for the Department undertaking valuation and rating of property ;
- (c) the county valuer for the time being responsible for the Department undertaking valuation and rating of property who shall be the secretary to the Committee,;
- (d) a registered valuer of at least five years' experience nominated by the Institution of Surveyors of Kenya;
- (e) a nominee of the respective Municipal Board/Town Committee where applicable;
- (f) a nominee of the local chapter of Kenya National Chamber of Commerce and Industry.

(3) The County Executive Committee Member shall appoint members nominated under sub-section 2 (a), (d) and (f) by notice in the *Gazette* for a term not exceeding three years, renewable once.

(4) The rating authority shall pay such reasonable allowance or fee in respect of the members of the valuation committee as shall be prescribed.

(5) Notwithstanding the provisions of sub-section (4) payment of a fee or allowance under this section shall not confer the status of officer of the rating authority to a member, or pecuniary interest in any contract or proposed contract or such other matter under this Act.

### **Quorum of the Valuation Committee**

**20.** (1) At every sitting of the valuation committee, the quorum shall be made of the Chairperson and two other members.

(2) Notwithstanding the provisions of sub-section (1) if at any sitting the chairperson is absent, the members of the committee present shall appoint a person from among themselves to act as chairperson during that sitting.

### **Conduct of members**

**21.** A member of the Committee—

- (a) shall perform duties in good faith;
- (b) shall disclose to the committee, any personal interest that a member or spouse, parent, child, partner or business associate of that member may have in any matter before the committee;
- (c) shall not use the position or privileges of membership for private gain or to improperly benefit another person; and
- (d) shall not act in any way that compromises the credibility, impartiality, independence or integrity of the committee.

### **Procedure of valuation committee**

**22.** (1) All decisions of the valuation committee shall be arrived at by the vote of a majority of the members present; and, in case of an equality of votes, the chairperson or the member acting as such shall also have a casting vote.

(2) Not less than seven days before the day fixed for the first sitting of the valuation committee, the secretary shall publish notice of the date of that sitting.

(3) The procedure of a valuation committee shall, subject to such regulations, if any, as may be made in that behalf by the County Executive Committee Member, be such as the committee may determine, and the



committee shall, unless the committee otherwise orders on the application of any party to the matter then proceeding and upon being satisfied that the interests of either party would be prejudicially affected, sit in public.

(4) At every sitting of the valuation committee it shall be lawful for the committee to call and examine any witnesses on oath or affirmation and to call for the production of all such papers or documents as it may deem necessary, and every such witness may also be represented by an advocate.

(5) The secretary of the committee shall cause a note to be taken of any evidence given before it, and shall keep minutes of its proceedings and a record of the assessment, objection and finding in regard to each objection.

#### **Determination of objections**

**23.** (1) Every valuation committee shall at sittings duly called by the secretary, consider the objections made under section 16.

(2) Not less than seven days before the day fixed for their consideration by a valuation committee of any objection, the secretary shall send a notice of the date to the persons mentioned in subsection (3); but it shall be lawful for a valuation committee to hear any objection at shorter notice if all the persons entitled to be heard on the objection consent.

(3) On the consideration of an objection the rating authority and the persons who lodged the objection and the rateable owner of the rateable property which is the subject of the objection may appear and be heard, either in person or through an Advocate or accredited representative and may examine any witness before the committee, and may call witnesses.

(4) After hearing the persons mentioned in subsection (3), or such of them as desire to be heard, the valuation committee shall confirm or may amend the draft valuation roll or draft supplementary valuation roll, by way of reduction, increase, addition or omission, as to it may seem just.

(5) Where a valuation committee has amended a draft valuation roll or draft supplementary valuation roll in accordance with subsection (4), it shall be lawful for the committee to make any further amendment of the roll, as to it may seem proper, in consequence of such first-mentioned amendment:

Provided that—

- (i) no such further amendment by way of increase or addition shall be made unless any rateable owner concerned has been given at

least fourteen days' previous notice of the proposed amendment and of the date of the sitting of the committee at which such amendment will be considered; and

- (ii) every such rateable owner may lodge an objection to such further amendment in writing, so as to reach the secretary not less than three days before such date.

(6) The valuation committee shall consider the objections made under paragraph (ii) of the proviso to subsection (5), and the provisions of section 16(2) shall apply, *mutatis mutandis*, in respect of those objections.

#### **Certification of valuation roll**

**24.** (1) As soon as may be after all objections have been heard and determined and after any amendments have been made in a draft valuation roll or draft supplementary valuation roll, the chairperson of the valuation committee shall endorse upon the same and sign a certificate to that effect.

(2) A draft valuation roll, on being signed and certified by the chairperson of a valuation committee under sub-section (1) or by the County Secretary under section 18(1) shall be the valuation roll for the area in respect of which it is made.

(3) A draft supplementary valuation roll, on being signed and certified by the chairperson of a valuation committee under subsection (1) or by the County Secretary under section 18(1), shall be the supplementary valuation roll for the area in respect of which it is made, and shall be deemed thereafter for the purposes of this Act to be part of, and to be included in the valuation roll.

(4) The County Secretary Shall publish notice that the valuation or supplementary valuation roll has been signed and certified under this section and the notice shall state the manner in which and the latest day by which appeals may be made.

#### **Coming into force of valuation roll**

**25.** (1) A valuation roll or supplementary valuation roll shall be laid before the County Assembly of the rating authority for adoption and shall for the purposes of any law providing for the imposition of rates on land by the rating authority, be deemed to be the valuation roll or supplementary valuation roll, as the case may be and to have come into force at the commencement of the financial year for which it has been prepared.

(2) A valuation roll shall remain in force, as amended from time to time, by a supplementary valuation roll, until it is wholly superseded by a new valuation roll.

### **Appeals**

**26.** Any person who has appeared before the valuation committee on the consideration of an objection made before that committee under this Act, or who has submitted an objection in writing to the valuation committee, and who is aggrieved by the decision of the valuation committee on the objection, may appeal against the decision of the valuation committee within one month from the date of completion notice to a subordinate court presided by a Magistrate.

### **Cases stated**

**27.** (1) If, during the consideration of an objection by a valuation committee, any question of law arises as to the principle upon which any valuation has been or should be made, it shall be lawful for the committee, instead of itself deciding that question, at the request of any party to the hearing, to reserve such question of law for decision by the Environment and Land Court, and such question shall be stated in the form of a special case.

(2) On the hearing of a case stated under this section, the Environment and Land Court may make such order as to costs as may seem just.

### **Valuation Roll not to be challenged or set aside**

**28.** No valuation contained in any valuation roll or supplementary roll prepared under this Act shall be rendered void or be affected by reason of any mistake or variance in the description of any rateable property or in the name of any rateable owner thereof, and no valuation roll or supplementary roll which has been signed and certified by the County Secretary under section 18(1) or by the Chairperson of the valuation committee under section 24(1), shall be challenged or set aside by reason of any informality.

## **PART V—RATING**

### **Forms of rating**

**29.** (1) For the purposes of levying rates under this Act, the rating authority may, adopt any of the following rates under this Act—

- (a) an area rate;
- (b) site value rate or a site value rate in combination with an improvement rate.

(2) Where any one of the forms of rating under subsection (1) has been adopted in respect of any rating area, no other form of rating under this sub-section shall, at the same time, be adopted in respect of that area.

(3) The provisions on valuation under this Act shall apply in regard to any form of rating adopted under this Act.

(4) The County Assembly shall prescribe the form of rating for use under this Act.

### **Imposition of rates**

**30.** A property rate shall be imposed on all rateable property in the County for each year, other than—

- (a) exempted rateable property;
- (b) excluded property; and
- (c) public land in respect of which contribution in lieu of rates is payable under this Act.

### **Alternative rating methods**

**31.** (1) Subject to subsection (2) the rating authority may 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 for which it is reserved.

(2) A rate levied under this section shall be referred to as an area rate.

### **Site value and improvement rates**

**32.** A site value rate may be levied in combination with a rate on the assessment for improvement as appearing in the valuation roll provided that any site value shall not exceed one percent of the unimproved value of property.

### **Amount of rates payable**

**33.** (1) The County Assembly shall prescribe the amount of rate payable each year as shall be published in the Siaya County Finance Act for the respective year.

(2) If the County Assembly does not determine the amount of a rate payable for a particular year, the amount of the rate payable for that year is deemed to be the amount of the rate that was payable for the immediately preceding year.

**Due date for rates**

**34.** (1) A rate becomes due on the 1st of January or such other prescribed date each year.

(2) The rating authority shall 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) Notice of at least thirty days shall be given of the payment date published under subsection (2).

(4) For the purposes of this Act, the valuation roll in force on the day on which any rate becomes payable is conclusive evidence of all matters included in such roll.

**PART VI—PAYMENT AND ENFORCEMENT OF RATES**

**Payment of rates**

**35.** (1) The rateable owner of any rateable property shall be liable for payment of the rate amount on such a date as the rate shall be imposed.

(2) If the owners of the rateable property 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 rateable property is absent from Kenya, any person receiving the rent or being in charge or control of the land is liable for payment of the rate.

(4) Rates that remain unpaid after the day on which they become payable shall attract simple interest at the rate of one percent per month or at such other rate as the County Executive Committee Member for Finance may in the annual Siaya County Finance Act prescribe and for the purpose of this section a part of a month shall be counted as a month.

(5) The County Executive Committee Member for Finance may enter into an agreement authorizing one or more persons or entities to collect rates on behalf of the County Government on such terms and conditions as shall be set out in the agreement.

(6) For the avoidance of doubt, the payment of a rate for a rateable property by a person does not confer ownership of the property.

**Contribution in lieu of rates**

**36.** (1) Subject to subsection (2), a contribution in lieu of rates is payable for the year following commencement of this Act and all subsequent years.

(2) A contribution in lieu of rates is not payable for public land that is—

- (a) excluded public property; or
- (b) exempt rateable property

(3) A contribution in lieu of rates for each year becomes due on first day of January of that year and is payable on or before the thirty first day of March of that year.

### **Collection of rates**

**37.** (1) Rates shall be paid to the County Revenue Officer or any other person authorized to collect rates by the Department responsible for Finance.

(2) Rates are payable—

- (a) by an electronic transfer of funds or such other ways approved by the Department of Finance; or
- (b) at the offices of the Department of Finance or at any other place approved by the CECM responsible for Finance.

(3) The county revenue officer shall issue a receipt to the payee for every payment of rates.

### **Waiver, remission, reduction, deferment, discount on payment of rates**

**38.** Any waiver, remission, reduction, deferment or postponement of payments of rates and penalty interest, including any payments by instalments must be approved by the County Executive Committee.

### **Enforcement on payment of rates**

**39.** (1) Where a rateable owner fails to pay the rates due when they become payable, the rating authority shall send a demand for the unpaid rates to the rateable owner.

(2) A rateable owner shall be required to make payments to the County Government within fourteen days after receipt of the demand.

(3) When a person, who having been served with a demand under subsection (1), defaults in payment of the rates and accrued penalty interest, the County Executive Committee Member for Finance may recover the outstanding rates and interest as a civil debt in a court of competent jurisdiction.

**Recovery of rates**

**40.** (1) A written notice shall be served to a rateable owner where rates remain unpaid after a demand was previously sent to the rateable owner by the rating authority to—

- (a) any person paying rent in respect of any land on which such rates was levied; and
- (b) the rateable owner.

(2) A notice issued under subsection (1) shall state—

- (a) the amount payable including any penalty interest;
- (b) All future payments of rent by the person paying rent be made directly to the County Government until the amount payable together with any accrued interest is paid in full.

(3) A copy of the demand notice under subsection (1) shall be affixed in a conspicuous place on the rateable property

(4) A tenant who pays rent to the rating authority under this section shall not be liable to pay to the rateable owner any amount paid to the rateable authority.

(5) The rating authority shall issue a discharge note to the tenant and the rateable owner after the tenant has completed payment of rates under this section.

**Certificate of clearance of rates**

**41.** Any registration of an instrument referred to under section 38 of the Land registration Act, 2012 relating to property in Siaya County is subject to the County Government issuing a certificate of clearance rates, certifying all outstanding rates and penalties have been paid in accordance with this Act.

**PART VII—MISCELLANEOUS PROVISIONS**

**Annual reports**

**42.** (1) The County Executive Committee Member shall prepare an annual report on the operation and administration of the valuation system in the County.

(2) The report prepared under this section shall provide for—

- (a) the progress made and challenges experienced in the implementation of this Act;
- (b) the proposed remedies to the challenges experienced in the implementation of the Act; and
- (c) any other matter as may be required.

(3) A report under sub-section (1) shall be submitted to the County Executive Committee and the County Assembly within fourteen days after the end of each financial year.

### **Regulations**

**43.** (1) The County Executive Committee Member shall make regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of sub-section (1) the regulations shall;

- (a) prescribe the forms for applications and notices
- (b) prescribe the procedure for appointment of members of the Valuation Committee, procedure of committee and the conduct of affairs of the committee; and
- (c) prescribe fees and allowances payable under this Act.

### **Payment prior to the Act**

**44.** Any rate paid or payable to the rating authority prior to the coming into force of this Act shall be deemed to be paid or payable under this Act.

## **PART VIII—SAVINGS AND TRANSITIONAL PROVISIONS**

### **No effect on previous operation of certain national Acts**

**45.** (1) Nothing in this Act affects a right, privilege, obligation or liability acquired, accrued or incurred by the County Government under the Valuation for Rating Act Cap 266 and the Rating Act Cap 267 before the commencement of this Act.

(2) Nothing in this Act affects any investigation, legal proceeding or remedy by the County Government in respect of any right, privilege, obligations or liability referred to in subsection (1).

### **Valuation and supplementary valuation rolls to continue to have effect**

**46.** (1) All valuation and supplementary valuation rolls in force or prepared prior to the commencement of this Act shall continue to be in force until such a time when new valuation rolls are adopted and shall continue to apply for the purposes of imposing and collecting rates under this Act.

(2) Anything done by the rating authority in relation to the preparation of new valuation rolls before the commencement of this Act



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shall be deemed to have been done under this Act and shall continue to be applied in accordance with provisions of this Act.

(3) Any rate paid or payable to the rating authority prior to the coming into force of this Act shall be deemed to be paid or payable under this Act.

(4) On or after the commencement of this Act, any rules made under the Valuation for Rating Act (*Cap. 266*) and the Rating Act (*Cap. 267*) if the rule was in force before the commencement of this Act shall continue to be in force with the necessary modification with respect to any matter not provided for in this Act until such a time when regulations under this Act are made.

**MEMORANDUM OF OBJECTS AND REASONS**

The object of this Act is to give effect to the implementation of Article 209(3) (a) of the Constitution of Kenya, 2010 by providing for a legislative and institutional framework for valuation of property for the purpose of property rates and the imposition, payment and collection of property rates in the Siaya County.

**PART I** (Section 1-4) of the bill contains preliminary provisions.

**Clause 1** includes short title.

**Clause 2** provides for application of the Act.

**Clause 3** provides for interpretation of terms used in the Act.

**Clause 4** includes the purposes of the Act.

**PART II** (Section 5-6) of the Act deals with the administration of the Act.

**Clause 5** provides for appointment of County Valuers under this Act.

**Clause 6** outlines the duties of County Valuers under this Act.

**PART III** (Section 7-15) of the Act deals with valuation.

**Clause 7** provides for the preparation of a valuation roll.

**Clause 8** provides for amendment of valuation roll.

**Clause 9** provides for preparation of supplementary valuation roll.

**Clause 10** provides for contents of valuation roll.

**Clause 11** provides for power of entry and inspection.

**Clause 12** provides for basis of valuation.

**Clause 13** provides for exempt properties.

**Clause 14** provides for excluded public areas.

**Clause 15** provides for deposit and inspection of draft valuation roll and supplementary valuation rolls.

**PART IV** (Section 16-28) of the Act deals with objections and appeals.

**Clause 16** provides for objections to draft valuation roll and supplementary valuation rolls.

**Clause 17** provides for withdrawal of objections.

**Clause 18** provides for uncontested valuation roll and supplementary valuation rolls.

**Clause 19** provides for establishment of valuation committee.

**Clause 20** provides for quorum of valuation committee.

**Clause 21** provides for conduct of members.

**Clause 22** provides for procedure of valuation committee.

**Clause 23** provides for determination of objections.

**Clause 24** provides for certification of valuation roll.

**Clause 25** provides for coming into force of valuation roll.

**Clause 26** provides for appeals.

**Clause 27** provides for cases stated.

**Clause 28** provides for valuation roll not to be challenged or set aside.

**PART V** (Section 29-34) of the Act deals with rating.

**Section 29** provides for forms of rating.

**Clause 30** provides for imposition of rates.

**Clause 31** provides for alternative rating methods.

**Clause 32** provides for site value and improvement rates.

**Clause 33** provides for amounts of rates payable.

**Clause 34** provides for due date of payment of rates.

**PART VI** (Section 35-41) of the Act deals with payment and enforcement of rates.

**Clause 35** provides for payment of rates.

**Clause 36** provides for contribution in lieu of rates.

**Clause 37** provides for collection of rates.

**Clause 38** provides for waiver, remission, reduction, deferment, discount on payment of rates.

**Clause 39** provides for enforcement of payment of rates.

**Clause 40** provides for recovery of rates.

**Clause 41** provides for certificate of clearance of rates.

**PART VII** (Section 42-44) of the Act deals with miscellaneous provisions.

**Clause 42** provides for annual reports.

**Clause 43** provides for regulations.

**Clause 44** provides for payment prior to the Act.

**PART VIII** (Section 45-46) of the Act deals with savings and transitional provisions.

Clause 45 provides for no effect on previous operation of certain National Acts.

Clause 46 provides for Valuation and supplementary valuation rolls to continue have effect.

JAMES OBIERO OTARE,  
*Chairperson, Committee on Lands,  
Physical Planning, Surveying and Housing.*