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BUNGOMA COUNTY BILLS, 2024

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**THE BUNGOMA COUNTY VALUATION AND RATING BILL,
2024**

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**THE BUNGOMA COUNTY VALUATION AND RATING BILL,
2024**

A Bill for

AN ACT of the County Assembly Bungoma to give effect to the provisions of 209(3) of the Constitution; to provide a comprehensive framework for the imposition of rates on land, buildings and other immovable property in the Bungoma County and for connected purposes

ENACTED by the County Assembly of Bungoma, as follows—

PART I—PRELIMINARY MATTERS

Short title

1. This Act may be cited as the Bungoma County Valuation and Rating Act, 2024.

Application of the Act

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

Interpretation

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

“agricultural rental value rate” has the meaning assigned to it in accordance with paragraph 1 of Schedule 2;

“Area rate” has the meaning assigned to it in accordance with paragraph 1 of Schedule 1;

“County Assembly” means the Bungoma County Assembly;

“Executive Committee Member” means the member of the County Executive Committee for the time being responsible for land;

“County Government” means the Bungoma County Government;

“Improvement rate” has the meaning assigned to it in paragraph 2 of Schedule 3;

“Land” includes any improvement on, in or under the land;

“Prescribed” means prescribed by the rules made under this Act;

“Rate” means a rate imposed under this Act;

“Ratable owner” has meaning assigned to it by section 7 of the Valuation for Rating Act (Cap. 266);

“Ratable property” has the same meaning as in the Valuation for Rating Act (Cap. 266);

“Rating area” means an area for which a form or method of rating is or may be adopted or an area for which a rate is or may be imposed;

“County Rating Office” has the meaning assigned by section 5 of this Act;

“Receiver of Revenue” has the meaning given by Bungoma County Revenue Administration Act, 2019;

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

“Supplementary Valuation Roll” means any supplementary valuation roll prepared under the Valuation for Rating Act (Cap. 266)

“Valuation Roll” means any valuation roll prepared under the Valuation for Rating Act (Cap. 266)

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

Objective and Purpose of the Act

4. The objective and purpose of this Act is to—

- (a) provide an objective and equitable mechanism for taxation of property in the County; and
- (b) establish a mechanism to reliably raise revenue in the County to enable the County Government to govern and deliver services effectively.

PART II—ADMINISTRATION

Establishment of County Valuation and Rating Office

5. (1) There shall be, a Valuation and Rating Office in the department responsible for matters relating to land.

(2) The office shall be headed by the Valuation and Rating Officer, who will be a public officer, designated by the County Public Service Board.

(3) A person designated and/ or appointed as a rating Officer shall be—

- (a) qualified and experienced in matters relating to land, economics, business administration or other related field;
- (b) a member of Institution of Surveyors of Kenya (ISK), Royal Institute of Chartered Surveyors (RICS), International Federation of Surveyors (FIG) or any other related and recognized professional body;
- (c) be registered with the Valuers Registration Board;
- (d) experienced in public affairs.

(4) The County Valuation and Rating Officer, will be responsible for the administration of this Act including; establishment and management of valuation roll or rolls and registers in the County;

(5) The County Valuation and Rating Officer shall be answerable to the Director responsible for matters lands.

Officers of the County Valuation and Rating Office

6. There shall be seconded to the County Valuation and Rating Office, such number of public officers as may be necessary to enable the office to effectively perform its functions under this Act.

Functions of County Valuation and Rating Office

7. (1) The County Valuation and Rating Office shall perform the following functions —

- (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.

Expenditure of County Valuation office

8. The County Government shall allocate 3% of the funds collected under this Act for the administration of the County Valuation and Rating Office.

Receiver of revenue to collect revenues

9. (1) The Receiver of Revenue shall be responsible for collecting and receiving revenue under this Act.

(2) The receiver of revenue may appoint officers to collect and receive revenue under this Act and such officers shall be deemed to have been appointed by the Receiver of revenue pursuant to Section 4 of the Bungoma County Revenue Administration and Management Act and the provisions of Section 4 of Bungoma County Revenue Administration and Management Act shall be applicable.

Rates to be paid to the receivers of Revenue

10. (1) All and any rates due and payable together with any interest

and or penalties thereon shall be paid to the receiver of revenue or any other person authorized to collect rates.

(2) Rates may be paid—

- (a) by electronic transfer of funds or such other means as may be approved by the receiver of revenue; or
- (b) At any other place as may be determined by receiver of revenue.

(3) An authorized person receiving payment of a rate shall issue a receipt for the payment to the person making payment at the time of such payment.

PART III—VALUATION

Preparation of a valuation roll

11. (1) The County Valuation and Rating Office shall from time to time but at least once in every ten years, cause a valuation to be done within the County 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

12. (1) The County Valuation and Rating Office 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

13. (1) The County Rating Valuation office 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

14. The County Valuation and Rating Officer shall cause to be prepared a valuation roll and supplementary valuation roll in respect of every rateable property and shall include 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

15. (1) For the purposes of preparing a valuation roll or supplementary valuation roll, the County Valuation and Rating Officer shall on the production of written authority signed by the County Executive Committee Member, 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 Valuation and Rating Officer in the exercise of the powers conferred on him under this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 6 months or fine not exceeding twenty 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 Valuation and Rating Officer 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 commits an offence and is liable on conviction to a term of imprisonment not exceeding 6 months or fine not exceeding twenty thousand shillings., and any person who furnishes to any County Valuation and Rating Officer a false statement of value or of any other particulars aforesaid commits an offence and is liable on conviction to a term of imprisonment not exceeding 6 months or fine not exceeding Kenya Shillings twenty thousand (KSh. 20,000).

(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 Valuation and Rating Officer.

Basis of valuation

16. (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 *bona fide* seller might be expected to impose.

(2) In determining the value as provided for under subsection (1), the County Valuation and Rating Officer 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 Valuation and Rating Officer 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

17. (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) 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 in determining the principles upon which any land shall be deemed to be used for any of the purposes specified.

Excluded Public Areas

18. (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) 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 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.

Deposit and Inspection of draft valuation roll and supplementary valuation rolls

19. (1) The County Valuation and Rating Officer 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. 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* or 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 County Valuation and Rating Office 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 on draft valuation roll and supplementary valuation rolls

20. (1) An owner of a rateable property or any person 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 30 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 Executive Committee Member.

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

(4) The County Executive Committee Member 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 objection

21. An objector may withdraw a dully received objection by notice in writing to the County Executive Committee Member before the date fixed for the first sitting of the valuation committee.

Uncontested draft valuation roll and supplementary valuation rolls

22. (1) If on the expiration of the period of thirty days referred to in section 21(5) no objections have been received, or if all objections duly received have been withdrawn the County Executive Committee Member shall endorse upon the draft valuation or supplementary valuation roll and sign a certificate to that effect.

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

Establishment of Valuation Complaints Committee

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

(2) The Valuation Complaints 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 County Attorney in his absence the County Solicitor;
- (c) the county Valuation and Rating Officer 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 County Valuation and Rating Office shall pay such reasonable allowance or fee in respect of the members of the Valuation Complaints Committee as shall be prescribed.

Quorum of the Valuation Committee

24. (1) At every sitting of the valuation Complaints 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

25. A member of the Committee shall —

- (a) perform duties in good faith;
- (b) 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) not use the position or privileges of membership for private gain or to improperly benefit another person; and
- (d) not act in any way that compromises the credibility, impartiality, independence or integrity of the committee.

Procedure of valuation Complaints committee

26. (1) All decisions of the Valuation Complaints 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 Complaints Committee shall be determined by the regulations made in that regard by the County Executive Committee Member.

(4) At every sitting of the Valuation Complaints 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

27. (1) Valuation Complaints Committee shall at sittings duly called by the secretary, consider the objections made under section 21.

(2) Not less than seven days before the day fixed for their consideration by a Valuation Complaints Committee of any objection, the

secretary shall send a notice of the date to the persons who lodged the complaint; but it shall be lawful for a Valuation Complaints 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 County Valuation and Rating Office 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 Complaints 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 Complaints Committee resolves the amendment of 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:

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 Complaints Committee shall consider the objections made under paragraph (ii) of subsection (5), and the provisions of section 27(5) shall apply, *mutatis mutandis*, in respect of those objections.

Certification of valuation roll

28. (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 Complaints 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 Complaints committee under sub-section(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 Complaints Committee under subsection (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 Executive Committee Member 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

29. (1) A valuation roll or supplementary valuation roll shall be submitted to the County Assembly 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

30. Any person who has appeared before the Valuation Complaints 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 Complaints Committee on the objection, may appeal against the decision of the Valuation Complaints Committee within thirty days from the date of completion notice to a subordinate court presided by a Magistrate.

Cases stated

31. (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

32. 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 Executive Committee member or by the Chairperson of the Valuation Complaints Committee under section 28(1), shall be challenged or set aside.

PART V— RATING

Forms of rating

33. (1) The forms of rating in accordance with which property rates may be imposed under this Act are—

- (a) area rate as provided for in Schedule 1;
- (b) agricultural rental value rate as provided for in schedule 2; and
- (c) Site value rate or an improvement rate as provided for in Schedule 3.

(2) The County Assembly shall, in each year, adopt one or more forms of rating for the purposes of imposing a rate . Where a new form of rating is not adopted in a financial year, the forms of rating adopted in the previous financial year shall be applicable.

Imposition of rates and adoption of a form of rating

34. (1) The County Government may impose a rate on all or any rateable property in the county in respect of each year.

(2) Subject to sub-section (3), the form of rating adopted for the purposes of imposing a rate under subsection (1) shall be site value rate.

(3) The County Assembly may approve one or more of the other forms of rating and shall do so under the Act of the County Assembly providing for annual county finances or such other Act as the County Assembly may determine.

(4) Where there is in force a Valuation Roll or a supplementary valuation roll which does not include the value of land or where no improvement rate is valued, the County Valuation and Rating Office may levy site value rate at such an amount as the County Valuation and Rating Office shall determine provided it does not exceed 1% unless specifically provided for by another law.

(5) The County Government may adopt different forms of rating for different rating areas of the County.

Adoption of forms and methods in existence

35. (1) The County Assembly may, with such modifications as may be necessary, adopt and continue to apply in the County or part of the County,

any form or method of rating under any law or rule in force immediately before the coming into operation of this Act.

Payable rates to be determined annually

36. (1) The County Assembly shall, for each year, determine the amount of the rate payable and may do so under the Act providing for annual county finances or such other Act as it deem appropriate.

(2) Without prejudice to subsection (1), the County Assembly may, in determining the amount of a rate payable, use the wording set out in Schedule 4 of this Act.

Effect of default in determining annual rate

37. Where the County Assembly does not determine the amount of a rate payable for a particular year, then the amount of the rate payable for that year shall be deemed to be the amount of the rate that was payable for the immediate preceding year.

When rates are due

38. (1) A rate determined and imposed under this Act shall become due on first January in the financial year in which it is levied or such other date of each year prescribed by the County Assembly and shall become payable on such a day in the financial year as shall be fixed by the County Executive Committee Member through a notice in the *Gazette*.

(2) The County Valuation and Rating Office shall, upon determination and imposition of a rate, by notice in the *Gazette*—

- (a) specify the date on which the rate shall become payable; and
- (b) publish that date in a newspaper circulating in the County:

Provided that a notice of at least thirty (30) days shall be given of the date of payment published under this Section.

(3) For the purposes of this Act, the Valuation Roll or any Supplementary Valuation Roll in force on the day on which any rate becomes payable shall be conclusive evidence of all matters included in such Roll.

Person liable to pay rate

39. (1) Any person who is the owner of rateable land at the time when a rate is determined and imposed on that land becomes liable for the payment thereof.

(2) Where land is registered either jointly or as a tenancy in common, then the co-owners of the land so registered shall be jointly and severally liable for the payment of the rate.

(3) A person receiving the rent or who is in charge or control of the land of the rateable owner of which is absent from Kenya shall be liable for the payment of the rate.

County Executive to determine discount rates

40. The County Executive Member for Finance, in accordance with the Public Finance Management Act, shall determine the rate—

- (a) of discount that may be given by the County Rating office where a rate payable is paid in full;
- (b) at which the County rating office may charge interest on any amount payable that remains unpaid.

Power to allow discount

41. (1) The County Executive Committee Member for Finance may, on or before the day on which a rate determined by the County Assembly becomes payable—

- (a) allow a discount on any rate paid in full;
- (b) charge interest at a rate on any amount of a rate remaining unpaid after the day on which the rate became payable.

Unpaid rate to be recoverable as summary debt

42. (1) Any rate or part thereof that remains unpaid after it has become due and payable, together with interest thereon, shall be recoverable as a summary debt by the County Valuation and Rating Office and/or the receiver of revenue from the person liable for payment.

(2) The receiver of revenue may institute proceedings to recover the debt on behalf of the County Valuation and Rating Office.

- (3) A certificate signed by the receiver of revenue and certifying that—
 - (a) an amount of rates is or was due and payable on or before a certain date; and
 - (b) the amount or a part of the amount has not been paid on or before that date shall be admissible and *prima facie* evidence against the defendant in proceedings under this section.

Notice and its effect where rate is unpaid

43. (1) Where any rate or part thereof remains unpaid after the day on which it became payable, the County and Valuation and Rating Office may serve a written notice under subsection (2) upon any person paying rent to the owner of the land in respect of which such rate was imposed.

- (2) The notice shall indicate and state—
 - (a) the amount of arrears payable, which may include interest calculated in accordance with section 12; and

- (b) that all future payments of rent (whether already accrued, due or not) by the person paying the rent shall be made directly to the County Revenue Fund until such arrears and interest have been made in full.

(3) The notice served under this section shall operate as a transfer to the County Valuation and Rating Office the right to recover, receive and give a discharge in respect of such rent.

Unpaid rate to constitute a charge on land

44. (1) Any rate due and unpaid, together with interest thereon calculated in accordance with this Act, shall be a charge against the land on which the rate was imposed.

(2) The County and Valuation and Rating Office may, in the prescribed form, deliver a notification of a charge to a registrar of land under which such land is registered and the registrar shall register the notification against the title to the land.

(3) Upon its registration, the charge shall take priority in accordance with the law under which the land is registered.

Statement on rates

45. (1) On payment of the prescribed fee by any person, the County rating Office shall furnish to that person a statement of the current status of the payment of rates for an area of land.

Service of documents

46. (1) Where any document is required to be published, sent or served for the purposes of this Act, the provisions of section 12 of the Bungoma County Revenue Administration and Management Act, 2014, shall apply.

PART VI— MISCELLANIOUS PROVISIONS

Rules and regulations

47. (1) The County Executive Member may make regulations generally for the better carrying out of the provisions and purposes of this Act and different rules may be made in respect of different forms of rating or different ratings areas.

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

- (a) collecting rates;
- (b) prescribing cases in which rates may be reduced or remitted;
- (c) exempting any person or class of persons from the payment of rates;

- (d) prescribing the cases or circumstances under which the County Valuation and Rating Office is to or may grant exemption from the payment of rates or of any rate or classes of persons who may be exempted;
- (e) prescribing the extent to which any land is to be exempted from the payment of area rates; and
- (f) prescribing fees.

Transitional provisions

48. (1) Subject to such modifications that may be necessary to bring them into conformity with provisions and requirements of this Act and the rules and or regulations made hereunder—

- (a) the form or method of rating in force in the County immediately before the coming into operation of this Act is hereby adopted by reference and shall continue to apply under this Act;
- (b) the rules in force immediately before the coming into operation of this Act that apply to any form or method of rating which is continued under subsection (1) shall continue to be in force for the purposes of this Act;
- (c) any rules in force immediately before the coming into operation of this Act that exempt any charitable institution from the payment of rates in respect of any area in the County are adopted by reference under this Act and shall continue in force for the purposes of this Act.

(2) A valuation roll or supplementary valuation roll that, but for the operation of the Valuation for Rating Act (Cap. 266), would have been in force immediately before the coming into operation of this Act in respect of the County or a part of the County is deemed to be in force for the purposes of this Act as if that valuation roll or supplementary valuation roll were made in compliance with the Valuation for Rating Act (Cap. 266).

FIRST SCHEDULE

(Sec. 33)

Area Rate:

1. (1) An area rate is a rate imposed on an area of land and, the County Assembly may adopt one or more of the following methods of rating for an area rate—

- (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 flat rate, according to the use to which the land is —
 - (i) put;
 - (ii) capable of being put; or
 - (iii) reserved;
- (d) an industrial rate upon the area of land used for other than agricultural or residential purposes;
- (e) a residential rate upon the area of land used for residential purposes; or
- (f) such other method of rating upon the rate of land or building or other immovable property as the county assembly may approve.

(2) The county may adopt different forms of rating for different rating areas and may from time to time vary the method or methods of area rating referred to in clause 1 above.

SECOND SCHEDULE

(Sec. 33)

Agricultural Rental Value

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

Agricultural land is land used for agriculture pursuant to Section 2 of the Agriculture, Fisheries and Food Authority Act.

THIRD SCHEDULE

(Sec.33)

A Site Value Rate or an Improvement Rate Site Value Rate

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

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

Application of Valuation for Rating Act (Cap. 266)

If a site value rate or improvement rate is adopted, the Valuation for Rating Act (cap266) including relevant definitions shall apply to the form of rating so adopted.

FOURTH SCHEDULE 4

(Sec. 33)

Determining the amount of a Rate that is payable

For the purposes of the Bungoma County Valuation and Rating Act, 2024, the amount of a rate payable for a rateable property for 2015 is 0.3 percent of the unimproved value of the rateable property.

MEMORANDUM OF OBJECTS AND REASONS

Article 209 (2) of the Constitution empowers the national government, by law, to impose any tax or duty except the property rates and entertainment taxes under Article 209 (3). Accordingly, county governments have exclusive constitutional power and authority to impose property rates.

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

The power to impose rates on immovable property in the County will constitute a reliable and sustainable source to raise County revenue for services delivery. The enactment of this Bill into law does not occasion additional expenditure of public funds.

Part I of the Act deals with title, application and interpretation of the Act.

Part II deals with administration of the Act. It entails the object and purpose of the Bill, established a County Valuation and Rating Office, provides for officers for the County Rating office and provides for the County Rating Officer to be an authorized officer.

Part III entails preparation and amendment of the valuation roll and preparation of a supplementary roll. It further entails the contents of a valuation roll. The Act provides for the power of entry and inspection, basis for valuation and exempted properties. It entails excluded public areas and provides for deposit and inspection of valuation roll and supplementary rolls.

Part IV provides for objections and appeals. It entails the procedures for objections of the valuation roll and the supplementary rolls and the circumstances for withdrawal of the objections and appeals. It establishes a valuation committee to tackle complaints and provides for the procedures for the conduct and administration of the committee. It further provides for the certification and coming into force of valuation roll.

Part V entails rating and describes the forms of rating, provides for imposition of rates, adoption of the forms of rates and determination of rates. It also outlines what requires to be done when the rates are due, persons liable to pay and the role and power of the County Executive to discount rates. The part stipulates action to be taken for unpaid rates and the need for statement on rates. It further provides for the officer to value land and ensure service of documents.

Part VI outlines miscellaneous provisions which include rules and regulations and transitional provisions.

FRANCIS CHEMION,
Chairperson, Committee on Lands, Physical Planning, and Housing.