

REVENUE ADMINISTRATION BILL, 2014

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REVENUE ADMINISTRATION BILL, 2014

A Bill for

An Act of the County Assembly of Kiambu to provide for general administration of revenue, establishment of the directorate of revenue administration services , appointment of the County Revenue Collector and for connected purposes

PART I – PRELIMINARY

Citation 1. This Act may be cited as the Revenue Administration Act, 2014 and shall come into operation on the date of publication in the gazette.

Interpretation 2. In this Act, unless the context otherwise requires-

“agent” means a person other than a County public officer appointed to collect revenue on behalf of the County;

“assessment” means an estimate of fees, charges, rent or rates including interest owed by a taxpayer to the County under section 15 of this Act.

“Auditor General” has the same meaning assigned in the Constitution;;

“authorised revenue collector” means the County Revenue Collector and any other officer appointed under section 8 of this Act;

“County public officer” has the same meaning assigned in the County Government Act;

“County Revenue Collector” means the person appointed under section 4 of this Act;

“County” means the County Government of Kiambu;

“County Revenue Fund” means a Fund established in accordance with section 207 of the Constitution;

“executive committee member” means executive committee member

responsible for finance;

“rate” means a charge imposed on an area of land in accordance with the Rating Act Cap.267 or any other law that may be enacted for that purpose;

“rent” means fees payable for use of a County house, stall or premises and includes hiring of a social hall or ground for social functions or any other activities;

“revenue” means any fee, charge, cess, rates, rent or any payment payable or due to the County;

“revenue law” means this Act, and any other Act relating to imposition and collection of revenue for the County; and

“taxpayer” means a person required to pay fee, charge, rate among others to the County.

- Objective
3. The objective of this Act is to provide a legal framework for revenue administration in order to ensure there are efficiency, transparency, accountability and fairness in revenue administration.

PART II – ADMINISTRATION

- Establishment of a directorate
4. (1) There is hereby established a directorate of Revenue Administration Services.

(2) The head of the directorate shall be the County Revenue Collector

(3) The directorate shall have such divisions as may be necessary for revenue administration.

- Appointment of the County Revenue Collector
5. (1) There shall be a County Revenue Collector appointed by the **executive committee member** through a gazette notice, from the three persons submitted by the County Public Service Board.

(2) For the purpose of subsection (1) the County Public Service Board shall, through a competitive process, select three persons for submission

to the **executive committee member**.

Qualifications
for a County
Revenue
Collector

6. A person shall not be appointed as a County Revenue Collector unless -
- (i) holds at least a degree in public finance, economics, law or business administration from a university recognised in Kenya;
 - (ii) is of high moral character and integrity and fulfils the requirement of Chapter six of the Constitution;
 - (iii) has not been adjudged bankrupt by a court of law of competent jurisdiction;
 - (iv) has met his tax obligations both at national and the County level;
 - (v) has at least ten years' experience in matters related to finance; and
 - (vi) has clearance certificate or a letter of no objection from the Higher Education Loan Board.

Functions of the
County
Revenue
Collector

7. (1) The County Revenue Collector shall be responsible for the collection of, and accounting for the revenue and shall be subject to the control of the executive committee member, have the superintendence on all matters relating to revenue.
- (2) Notwithstanding the generality of subsection (1), the County Revenue Collector shall be responsible for-
- (i) with the approval of the revenue management committee, appoint such heads of divisions as may be required for the efficient performance of the directorate.
 - (ii) with the approval of the revenue management committee, appoint Sub-County Revenue Collector;
 - (iii) administration and enforcement of revenue laws;
 - (iv) planning, directing, supervising and coordinating activities of revenue collection;

- (v) implementing policies on revenue collection;
- (vi) designing and maintaining systems to promote and support voluntary payments of revenue and also compliance with revenue laws;
- (vii) ensuring accurate, efficient and lawful assessment of revenue;
- (viii) designing and implementing a plan to achieve revenue growth;
- (ix) designing and implementing effective, efficient and secure systems of collecting revenue;
- (x) ensuring the revenue management committee is regularly updated on revenue matters;
- (xi) with the approval of the executive committee member, transfer or merge the functions of a division of the directorate;
- (xii) transfer any revenue collector from one division to another or from one station to another ;and
- (xiii) performing such other functions as may be assigned by the executive committee member.

Tenure of office

8. (1) The County Revenue Collector shall be appointed for a term of four years and shall be eligible for re-appointment for one further term.

(2) The County Revenue Collector shall be paid such remuneration as may be approved by the County Public Service Board.

(3) A person appointed as a County Revenue Collector shall cease to hold office if the person –

(a) resign from office by notice in writing addressed to the executive

committee member;

(b) is unable to perform the functions of his office by reason of mental or physical infirmity;

(c) is adjudged bankrupt or insolvent by a court of competent jurisdiction;

(d) is convicted of a criminal offence and sentenced for a term of not less than six months; or

(e) if unable or unfit to discharge the function of the office.

Appointment
of other
revenue
collectors

9. (1) The County Revenue Collector shall, upon approval by the revenue management committee, appoint such other officers to be revenue collectors as may be necessary for the collection of revenue.

(2) The County Revenue Collector may authorise any officer appointed under this section to perform any of his functions under this Act other than the power to appoint a revenue collector.

Remuneration

10. A revenue collector shall be paid such remuneration as may approved by the County Public Service Board.

Revenue
collector to have
powers of
police officers

11. For the purpose of carrying out the provisions of this Act, every authorised revenue collector shall, in the performance of his duties, have all powers, rights, privileges and protection of a police officer.

Secrecy

12. (1) An authorised revenue collector shall, in carrying out the provisions of this Act, regard and deal with all documents and information relating to revenue and all confidential instructions in respect of the administration of this Act and any other revenue law that may come into the officer's possession or knowledge in the course of the officer's duties as secret.

(2) Nothing in this section shall prevent an authorised officer from disclosing a document or information to the following persons –

- (a) another authorised revenue collector for the purposes of carrying out any duty arising under a revenue law;
- (b) the court, to the extent necessary for the purposes of any proceedings under a revenue law;
- (c) the Director-General of the Kenya National Bureau of Statistics but only when such disclosure is necessary for the performance of official duties;
- (d) the Auditor-General but only when such disclosure is necessary for the performance of official duties;
- (f) any other person with the written consent of the executive committee member.

(3) If an authorised revenue collector is permitted to disclose documents or information under subsection (2), the officer shall maintain secrecy to the extent necessary to achieve the object for which the disclosure is permitted.

(4) Subsections (1) shall apply to a person receiving documents or information under subsection (2) as if the person were an authorised revenue collector.

PART III – PAYMENT

Revenue to be
paid into
County
Revenue Fund

13. (1) All money collected, or due and payable under any revenue law to the County shall be paid into the County Revenue Fund.

(2) A revenue collector shall issue an official receipt on all payments received on behalf of the County.

(3) All the revenue collected under sub section (1) shall be banked daily, by latest 4.00 pm.

(4) Any money collected after 4.00 pm, over the weekend or on a public holiday shall be banked during the next working day before 10.00 am.

(5) A person shall not receive or collect any money on behalf of the County unless authorised by the County Revenue Collector or by another revenue law.

(6) Any person who contravenes the provisions of this section commits an offence and on conviction shall be liable to a fine not exceeding one hundred thousand shilling or to imprisonment of six months or to both.

PART IV- ENFORCEMENT

Keeping of registers

14. (1) The County Revenue Collector shall maintain a register of all taxpayers except those that pays on daily basis or one off such taxpayers of market fees, cess or approval fees for building plans.

(2) The County Revenue Collector shall keep records on each taxpayer where necessary including communications with the taxpayer.

(3) The register or the records shall be updated regularly.

Assessment

15. (1) The County Revenue Collector based on such evidence as may be available to him, may make assessment of fees, charges, cess, rent, or rates including interest owed by a taxpayer.

(2) An assessment under subsection (1) shall not alter the due date of payment of the fees, charges or rate as determined under the revenue law.

(3) The authorised revenue collector shall cause the notice of the assessment under sub section (1) to be served on the person assessed and it shall state the amount of fees, charges or rates payable and the date taxpayer is expected to pay.

Power to repossess plots, properties and evict a person

16. (1) Upon approval by the revenue management committee , the County Revenue Collector may:-

(i) repossess a plot or property if the owner fails to pay the rate for more than three consecutive years.

(ii) evict a person occupying County house, stall or premises if the person fails to pay the rent for more than three consecutive months.

(2) The County Revenue Collector shall serve notice of eviction or repossession to a person occupying County house, premises, stall or the owner of the plot setting out conditions for restoration and the time limit within which the person occupying the County house, premises, and stall should comply.

Power of restoration

17. (1) The County Revenue Collector may restore the property or plot repossessed to the owner, if the owner meets the conditions for restoration set in section 16 within the time specified in the notice.

(2) If the owner of the plot or property fails to meet the conditions for the restoration, the plot or the property shall be forfeited to the County.

(3) The forfeited plot or property shall be sold to the highest bidder through a public auction by the County Revenue Collector.

(4) Any person who contravenes the provision of this section commits an offence and on conviction shall be liable to a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding three years or to both.

Power to collect fee, charges etc through agency notice

18. (1) The County Revenue Collector may, in respect of the taxpayer and by notice in writing, require a person who –

(a) owes, or may subsequently owe, money to the taxpayer;

(b) holds, or may subsequently hold money, for or on account of, the taxpayer;

(c) holds, or may subsequently hold money on account of another person for payment to the taxpayer; or

(d) has authority from another person to pay money to the taxpayer, to pay the amount specified in the notice to the County, being an amount that shall not exceed the amount of the unpaid fee, charges, rent, rate or any other monies owed to the County by the taxpayer .

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(2)The person shall pay the amount specified in the notice under subsection (1) by the date specified therein, being a date that is not before the date that the amount owed by that person to the taxpayer becomes due to the taxpayer or held on the taxpayer's behalf.

(3) When a person with a notice under subsection (1) claims to be, or to have become, unable to comply with the notice by reason of lack of monies held by him on behalf of, or due to the taxpayer from another person , the person shall notify the County Revenue Collector, in writing within seven days after receipt of the notice, setting out the reasons for his inability to comply.

(4) When a notice is served on the County Revenue Collector under subsection (3), the County Revenue Collector shall, by notice in writing –

(a) accept the notification and cancel or amend the notice issued under subsection (2); or

(b) reject the notification.

(5) The County Revenue Collector shall, by notice in writing to the taxpayer, revoke or amend a notice served under subsection (2) when the taxpayer has paid the whole or part of the revenue or has made an arrangement satisfactory to the County Revenue Collector for payment of the revenue

(6) The County Revenue Collector shall serve the taxpayer with a copy of a notice served on the agent under this section.

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(7) A payment made by an agent to the County Revenue Collector in accordance with a notice issued under this section is treated as having been made on behalf of the taxpayer and shall constitute a good and sufficient discharge of the liability of the taxpayer or any other person.

(8) The County Revenue Collector shall credit any amount paid by an agent under this section against the fee, charge or rates owing by the

taxpayer.

(9) An agent who, without reasonable cause, fails to comply with a notice under this section shall be personally liable for the amount specified in the notice.

Seizure and
forfeiture of
goods

19. (1) An authorised revenue collector may seize goods if he has reasonable grounds to believe that revenue in respect of the goods has not been paid.

(2) Goods seized under subsection (1) shall be stored in a place approved by the County Revenue Collector or authorised revenue collector in a manner to ensure the security of the goods.

(3) When the goods referred to in sub section (1), have been seized, the authorised revenue collector shall, having regard to the conditions of the goods, serve the owner of the goods or the person who had custody or control of the goods, a notice in writing-

(i) identifying the goods;

(ii) stating that the goods have been seized under this section and the reasons for seizure;

(iii) setting out the terms for the release or disposal of the goods; and

(iv) stating that the goods shall be forfeited to the County, if not claimed in accordance with subsection (4).

(4) The County Revenue Collector or authorised revenue collector may authorise the goods to be released to whom the notice was served under subsection (3) when that person pays or has given security for the payment of revenue due and payable, in respect of the goods.

(5) If subsection (4) does not apply, the County Revenue Collector or the authorised revenue collector shall detain the goods seized under subsection (1) –

- (a) in case of perishable goods, for a period that is reasonable, having regard to the conditions of the goods; or
- (b) in any other case, for thirty days after the seizure.

(6) When the retention period under subsection (5) has expired, the goods shall be treated as having been forfeited by the owner to the County Revenue Collector.

(7) The County Revenue Collector may sell the forfeited goods through a public auction or any other means approved by the revenue management committee.

Appeal to the Revenue Management Committee

20. If a taxpayer is dissatisfied with the decision of the County Revenue Collector he may within thirty days of being served with a notice of assessment by the County Revenue Collector appeal to the Revenue Management Committee.

Refund of fees, charges, rate etc paid in error.

21. (1) The County Revenue Collector may either refund or offset against future payments of fees, charges or rates paid in error.

(2) The taxpayer shall apply for refund or offsetting of fees, charges or rate paid in error to the County Revenue Collector giving sufficient reasons for the error.

(3) The County Revenue Collector having been satisfied that in deed the payment of fees, charges or rate was made in error, either refund within thirty days from the date of application or offset against future payments.

Agent

21. (1) The executive committee member may, upon approval by the revenue management committee and through a written agreement, appoint a person, to collect any revenue on behalf of the County.

(2) A person appointed under subsection (1) shall be paid a fee not exceeding five per cent of the revenue collected by that person.

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Revenue management Committee

22. (1) There is established a revenue administration committee.

(2) The Committee shall comprise of the:-

executive committee member who shall be the chairperson;

chief officer responsible for finance; chief officer responsible for lands, housing and physical development

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chief officer in charge of administration;

chief officer in charge of trade, industry, tourism and cooperatives;

Chief Officer in charge of water, environment and natural resources;

Chief of staff or his representative;

technical officer in charge general enforcement in the county or his representative

head of legal services or his representative;

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director of finance; and

the County Revenue Collector or his representative who shall be the secretary to Committee

(3) The Committee shall meet at least once every month.

Functions of the Revenue Management Committee

- i) The functions of the Revenue Management Committee shall be to-
 - (i) review the revenue performance;
 - (ii) advise on the revenue policies;
 - (iii) approve eviction of person occupying a County house, a stall or a County premises and repossession of plots or properties upon recommendation of the County Revenue Collector;
 - (iv) set targets for various revenue divisions, Sub-County and also

the overall revenue target for the County;

- (v) approve the appointment or removal of a Sub County Revenue Collector;
- (vi) approve waiver of fees, charges, rates or penalties;
- (vii) approve appointment of revenue agent;
- (viii) advise the County Revenue Collector on measures to enhance revenue collection, and
- (ix) advise on any other matter necessary for better carrying out the functions of this Act

PART V- OFFENCES

Failure to pay fees, charges, cess etc

23. A person who fails to pay revenue due to the County before or on the due date commits an offence.

Obstruction of authorised officer

24. A person who hinders or obstructs an authorised revenue collector from the performance of his duties under a revenue law commits an offence.

Aiding or abetting an offence

25. A person who aids, abets, assists, incites, or induces another person to commit an offence under a revenue law commits an offence.

Offences by authorised revenue collector

26. An authorised revenue collector commits an offence when the officer –

- (a) makes, in any record, return, or other document that they are required to keep or make, an entry that they know, or have reasonable cause to believe to be false, or do not believe to be true;
- (b) wilfully refuses to do anything that they know, or have reasonable cause to believe, is required to be done by them under a revenue law;
- (c) interferes with any other person or process under a revenue law so as to defeat the provisions or

requirements of the revenue law;

- (c) fails to do anything that the authorised officer is required to do to give effect to the provisions of a revenue law;
- (d) fails to issues a receipt for the money received on behalf of the County or issues receipt for less amount of money than the amount received;
- (e) without reasonable cause, acts or omits to act in breach of his duty under a revenue law;
- (f) wilfully contravenes the provision of a revenue law to give undue advantage or favour to another person; or
- (g) fails to prevent or report to the relevant authority the commission of an offence under a revenue law.

(2) In this section, “authorised revenue collector” includes a person employed or engaged by the County in any capacity

PART VI-- MISCELLANEOUS

Serving of notices, documents etc	<p>27. (1) Any notice, document or information required or authorized to be sent or served under a revenue law may be sent or served—</p> <ul style="list-style-type: none">a) by delivering it personally to the person to whom it is to be sent or served; orb) by leaving it at the usual or last known place of abode or business of that person, or, in the case of a company, at its registered office; orc) by sending it through post office to the last known address or by registered mail; ord) by emailing it to the person;e) Short text messages (SMS) <p>2) If the County Revenue Collector having attempted to send information or serve a document by any of the method provided under subsection (1) and is satisfied that such notice, information or document has not been received by the person to whom it was addressed, the</p>
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	<p>County Revenue Collector may publish in a newspaper with wide circulation in the County the general purport of the notice, document or the information which is deemed to have been received by the person.</p> <p>(3) A publication referred to in subsection (2) may refer to one or more documents and to one or more rateable property owners.</p> <p>(4) Any document under a revenue law required or authorized to be served on the owner or occupier of any premises may be addressed by the description “owner” or “occupier” of the premises without further name or description.</p>
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Revenue due is debt	<p>28. Any charge, rate, cess, rent or any revenue due and payable to County that is outstanding constitute a debt due to the County and may be recovered by action in any court of competent jurisdiction.</p>
Reports	<p>29. (1). The County Revenue Collector shall prepare and submit monthly, quarterly and annual revenue reports to the executive committee member.</p> <p>(2) Revenue report referred in subsection (1) shall be submitted not later than ten (10) days after the end of each period.</p>
Keeping of records	<p>30. (1) The County Revenue Collector shall keep records of all revenue collected on behalf of the County in accordance with the international accounting standards.</p> <p>(2) The revenue records shall be audited by the Auditor General.</p>
Application of Information Technology	<p>31. Revenue due to the County may be paid to the County Revenue Collector through information technology.</p>
Practice notes	<p>32. (1) In order to achieve consistency in revenue administration and to provide guidance to persons affected by the revenue laws, the County Revenue Collector may issue to the public practice notes setting out his interpretation of the law.</p>

	2) A practice note is binding on the County Revenue Collector and other revenue collectors until revoked.
Identification cards	An authorized revenue collector shall wear visibly a staff identification card issued by the County Revenue Collector.
Approved Forms	33. The County Revenue Collector may approve Forms for the purpose of revenue collection.
Protection of officers	34. No officer shall be personally liable for any act or omission done in the performance of his functions under this Act unless having regard to the circumstances of the case, such act or omission is found to be- <ul style="list-style-type: none"> (i) done or omitted to be done wilfully or dishonestly by such officer; (ii) attributable to the negligence of such officer; or (iii) done or omitted to be done by such officer in contravention of any provision of this Act, or regulations.
General penalty	35. A person convicted of an offence under this Act for which no penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years, or to both.
Regulations	36. The executive committee member may make regulations for better carrying out the purpose of this Act.
Savings	37. (1) On coming into effect of this Act, the County public officers collecting revenue for the County shall- <ul style="list-style-type: none"> (i) continue to collect or receive revenues on behalf of the County as if they were appointed under this Act. (ii) become officers of the directorate established under this Act.

MEMORANDUM OF OBJECT AND REASONS

The objective of Bill is to provide the legal framework for County revenue administration in order to ensure effective and efficiency, transparency, accountability and fairness in revenue administration.

Part I provide for the citation of the Act and the interpretation of the terms used in the Act

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Part II provide for the establishment of directorate of the Revenue Administration Services. The part further provide for the appointment of the County Revenue Collector, his functions, tenure of office and appointment of other revenue collectors.

Part III provide for all revenue collected or received on behalf of the County to be paid into the County Revenue Fund. It further provide for the timely and prompt banking of revenue collected

Part IV provide for the enforcement measures of the revenue collections such as assessment, repossession of properties, eviction of person occupying County property or house, appointment of agent to assist in collection of revenue and appointment of revenue management committee to advise on revenue matters.

Part V provide for offences for failure to pay the revenue such as, obstructing authorised revenue collectors from performing their functions among others.

Part VI provide for keeping of records on revenue collected by the County Revenue Collector, protection of revenue collectors, general penalty and power of the executive committee member to make regulation for better carrying out the functions of the Act.

The enactment of the Bill shall occasion additional expenditure to the County which shall be provided in the budget estimate.

Chairman
Finance, Trade and Planning Committee