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REPUBLIC OF KENYA

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**Rt. Hon. Speaker**  
You may approve for tabling  
J. M. Nyegenye, C.B.S.,  
Clerk of the senate/secretary, PSC  
Date: 07/03/24

EJ  
07/03/2024



THIRTEENTH PARLIAMENT | THIRD SESSION

STANDING COMMITTEE ON ROADS, TRANSPORTATION AND HOUSING

REPORT ON THE AFFORDABLE HOUSING BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 75 OF 2023)

PAPERS LAID	
DATE	07/03/2024
TABLED BY	Chair Person
COMMITTEE	Roads, Transportation & Housing
CLERK AT THE TABLE	Polycarp

Clerk's Chambers,  
The Senate,  
First Floor, Parliament Buildings,  
NAIROBI.

MARCH, 2024

## LIST OF ABBREVIATIONS/ACRONYMS

### LIST OF ACRONYMS

BETA-	Bottom-Up Economic Transformation Agenda
KNHCR-	Kenya National Human Rights Commission
KPMG -	Klynveld Peat Marwick Goerdele
PAYE .	-Pay as You Earn

### LIST OF ABBREVIATIONS

AAK-	Architectural Alliance of Kenya
AFH -	Affordable Housing Bill
CDH -	Cliffe Dekker Hofmeyr
CS -	Cabinet Secretary
CSR-	Corporate Social Responsibility
DDLO-	Dagoreti District Land Owners
EAC-	East Africa Community
KAM-	Kenya Association of Manufacturers
KBA -	Kenya Bankers Association
KRA-	Kenya Revenue Authority
MDAs-	Ministries, Departments, and Agencies
MSMEs -	Micro-Small and Medium-Sized Enterprises
NCA-	The National Construction Authority
NCPC-	National Congress of Pentecostal Churches
PPP-	Public Private Partnership
SRC-	Salaries and Remuneration Commission.
VAT -	Value Added Tax

(k) The Railway City Development Authority.

**MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT**

**a) State Department for Housing and Urban Development** which has the following institutions-

- (a) National Housing Corporation;
- (b) National Housing Development Fund;
- (c) Civil Servants Housing Scheme Fund; and,
- (d) Estate Agents Registration Board.

**b) State Department for Public Works** which has the following institutions-

- (a) National Construction Authority;
- (b) Kenya Building Research Centre;
- (c) The National Building Inspectorate;
- (d) Board of Registered Architects and Quantity Surveyors;
- (e) Contractors and Builders Retention Fund; and,
- (f) Building Surveyors Registration Board.

**MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS**

**a) State Department for Shipping and Maritime Affairs** which has the following institutions-

- i. The Kenya National Shipping Line;
- ii. Kenya Maritime Authority; and,
- iii. Bandari Maritime Academy.

**The Committee also works closely with the Council of Governors (CoG) and the County Assemblies Forum (CAF).**

## **CHAIRPERSON'S FOREWORD**

**Mr. Speaker Sir,**

The Affordable Housing Bill, 2023(National Assembly Bills No.75 of 2023) 21<sup>st</sup> February 2024 was published vide Kenya Gazette Supplement No. 236 of 4<sup>th</sup> December 2023 and passed in the National Assembly with amendments on 21<sup>st</sup> February 2024. The Bill was then referred to the Senate for consideration and read a First Time on 22<sup>nd</sup> February 2024.

Thereafter, pursuant to standing orders 145 of the Senate Standing Orders, the Bill stood committed to the Standing Committee on Roads Transportation and Housing for consideration and to facilitate Public Participation.

The Bill seeks to address the issues raised by the High Court in the above case. In particular, the main objective of this Bill is to create a legal framework for the Affordable Housing Fund to ensure access to affordable housing and fulfill the right to suitable housing as stipulated in Article 43(I)(b) of the Constitution. Additionally, it introduces the Affordable Housing Levy to fund the affordable housing programme and related social and physical infrastructure.

**Mr. Speaker Sir,**

In compliance with the provisions of Article 118(1) (b) of the Constitution and standing order 145(5) of the Senate Standing Orders, the Committee proceeded to undertake public participation on the Bill. An advertisement was published in the Daily Nation, the Standard and the Star newspapers on 23<sup>rd</sup> February 2024 inviting members of the public to submit written memoranda to the Committee on the Bill. Additionally, the Committee sent invitations to key stakeholders inviting them to appear before the Committee on 1<sup>st</sup> March, 2024 submit their comments on the Bill during public hearing on the Bill.

**Mr. Speaker Sir,**

The Committee received submissions of memoranda from the following stakeholders and has prepared the matrix containing the stakeholders' views. The Committee considered submissions from stakeholders and recommended that the Bill be adopted with the proposed amendments. Some of the key amendments proposed in the Bill are- the establishment of County Affordable Housing Committees in every county to

## CHAPTER ONE: INTRODUCTION

### BACKGROUND

- 1) The Affordable Housing Bill, 2023(National Assembly Bills No.75 of 2023) (Appendix 2) was published vide Kenya Gazette Supplement No. 236 of 4<sup>th</sup> December 2023 and passed in the National Assembly with amendments on 21<sup>st</sup> February 2024. The Bill was then referred to the Senate for consideration and read a First Time on 22<sup>nd</sup> February 2024.
- 2) The Bill was necessitated by the judgement of the High Court delivered on 28th November 2023 on the Constitutional Petitions by Okoiti & 6 others v Cabinet Secretary for the National Treasury and Planning & 3 others; Commissioner-General, Kenya Revenue Authority & 3 others (Interested Parties) (Petition E181, E211, E217, E219, E221, E227, E228, E232, E234, E237 & E254 of 2023 (Consolidated)) (2023) KEHC 25872 (KLR) (Constitutional and Human Rights).
- 3) In the judgement, the High Court concluded that the Affordable Housing Levy violated Articles 10,201,206 and 210 of the Constitution since it lacked a comprehensive legal framework. Further, the imposition of the Affordable Housing Levy against persons in formal employment to the exclusion of other non-formal income earners to support the national housing policy was without justification, unfair, discriminatory, irrational and arbitrary and in violation of Articles 27 and 201(b)(i) of the Constitution.
- 4) The Honourable Court again issued a temporary order of injunction on the 19th December 2023 prohibiting the conduct of participation on the Bill in the manner prescribed in the Notice published on the 9th December 2023 in the local daily newspapers, which was the invitation to submission of memorandum on the Affordable Housing Bill, 2023. The Honourable Court further directed the parties to file responses and submissions and that the matter was to be heard on 17th January 2024.
- 5) The Court Orders of 19th December 2023 did not stay the legislative process or public participation. However, what remained was public participation as prescribed in the notice of the Clerk of the National Assembly that was published in the daily newspapers of 9th December 2023.

## **PUBLIC PARTICIPATION ON THE BILL**

- 11) Pursuant to the provisions of Article 118(1) (b) of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committee facilitated public participation on the Bill. The Committee through an advertisement published in the Daily Nation, The Standard and The Star Newspapers on 23<sup>rd</sup> February 2024, invited members of the public to submit written memoranda on the Bill and held a public hearing on 1<sup>st</sup> March, 2024 to receive oral submissions.
- 12) The Committee received memoranda on the Bill from the following stakeholders and prepared a matrix containing the stakeholders' views (*Appendix 2*).

that the definition of affordable housing falls short of encompassing the holistic functionality of a dwelling.

*The proposal was rejected since the definition had already been provided for in the Bill.*

- 17) **Cliffe Dekker Hofmeyr** submitted that the definition of Levy be amended to read as "Levy means a contribution to the fund as prescribed under Clause 4 of this Act for purposes of development of affordable housing. The proposed amendment will bring clarity to the definition of the term levy and the Affordable Housing Levy in general. Secondly, the definition will also bring in the intention of the Affordable.

*The proposal was rejected since the definition had already been provided for in the Bill.*

- 18) **Kenya Bankers Association, and KPMG** observed that there is no definition of gross salary or Gross Income. Gross salary should include basic salary and regular allowances but exclude variables such as leave allowance, bonus, gratuity, pension, severance pay, or any other terminal dues and benefits Gross income to be defined as the amount of money a person receives periodically from a trade or carrying out a business. This is because the Bill does not define the terms gross salary and gross income, leaving room for arbitrary interpretations. According to the Kenya Bankers Association the directives on what constitutes gross by KRA is illegal.

*The proposal was rejected on the grounds that Kenya Revenue Authority has in place a system of determining gross salary and gross income*

- 19) **Kenya Association of Manufacturers** proposed to include a wider range of income bands and plinth areas without the limitation of specific properties being targeted to specific income bands. They further propose an increase of the plinth area of the affordable middle class housing unit to be between 80 sqm to 150 sqm. The justification is that the various definitions of what constitutes an affordable housing unit are vague and restrictive. For instance, it is not clear how the various income bands are tied to a plinth area. Further, we observe that the plinth area of

the government especially to those who may contribute but not qualify under the Affordable Housing Scheme.

*The proposal was rejected to ensure equity among the contributors.*

24) **The Kenya Bankers Association** proposed that The Government should reconsider revising the rates for both the contributions towards the Affordable Housing Fund and the penalty rates as well. Their justification is that given the current economic crisis, the proposed rate for the Affordable Housing Levy is high. The proposed levy could potentially incentivize employee lay-offs. Furthermore, the proposed penalty rate for non-remittance of the levy is also disproportionately high considering the proposed deduction is a new one and employers (including Banks) need to allocate some of their profits towards payment of the levy, outside of their existing obligations.

*The proposal was rejected and retain the deductions as provided in the Bill to ensure equity*

25) **KBA** also proposed an exit option to make it fair for those not eligible to own a house or those who will not get houses. This is due to the heavy financial burden on Employers and Employees.

*The proposal was rejected on the basis that the levy was a tax and hence mandatory deduction. However, the Committee proposed an exit option for those within voluntary contributions.*

#### **CLAUSE 4(2) (b)**

26) **Kenya Bankers Association and Cliff Deffer Hyofmr** submitted that there was need to provide a system to determine the gains of persons who are not employed in the formal sector and the computation of the levy for non-salaried persons. This is because it is difficult to measure the income of persons who are not employed in the formal sector. This provision will allow the Government to provide housing for distinct categories of persons with different wages by providing proper systems and checks to assess the gains of persons who are not employed in the formal sector. This system and checks will reduce systemic bias against salaried individuals and ensure equity amongst Kenyans.

*The proposal was rejected on the basis that the levy seeks to actualize the right of Kenyans to accessible and adequate housing as enriched in article 43(1)(b) as a result therefore the bill will eventually reduce the burdens on Kenyans by offloading the requirements to pay for housing.*

#### **CLAUSE 5**

31) **The Ministry of Lands, Public Works, Housing and Urban Development** proposed to Substitute the term “business or company” with “person”. The justification given was that “person” is consistent with section 4 (2) (b) and person covers both incorporated and unincorporated entities which should all be treated consistently e.g. NGO’s which are not business or companies.

*The proposal was adopted on the basis that the term person was more inclusive and would ensure fairness.*

32) **Kenya Bankers Associations** submitted that the employer’s contribution should be deleted. This is because Clause 31 of the Employment Act requires employers to provide housing. The additional contribution by the employer results in a total contribution of 3% by the formal employees whereas non-salaried persons are only required to pay 1.5% which is discriminatory.

*The proposal was rejected and retained as in the Bill to ensure that employers meet the obligation of providing housing to the employees as one of the methods.*

#### **CLAUSE 6**

33) **Kenya Bankers Association and K. Rose Wanjiru** proposed that The CS Treasury should consider exempting persons who already have their own houses, non-executive directors, secondary employees, foreigners, and any other category of persons who will not be eligible for the affordable housing units. The justification is that the imposition of the levy overlooks the fact that not all Kenyans desire affordable housing units and the units are available on application. It may be assumed that the levy would finance the construction of the affordable houses but such an assumption only leads to possibility of revenue leakage.

*The proposal was rejected as the levy was a mandatory tax.*

self-declaration will enable the collector to keep updated records on the status of the taxpayers and not impose penalties for the period where the taxpayer did not earn any income.

*The proposal was accepted subject to the provision being made in the Regulations*

#### **CLAUSE 8**

39) **The Kenya Association of Manufacturers** proposed that the fund be managed by the Board or a Housing Authority.

*The committee observed that the proposal was provided for in the bill.*

#### **CLAUSE 9**

40) **KPMG, Rose Wanjiru** proposed that the Clause and the Bill be amended to enable the entity to leverage debt instruments such as concessional loans, infrastructure bonds. Rationale provided is that the Bill in its current structure does not lend itself to scalability through leverage. According to KPMG the Housing and Development Board Structure (HDB) in Singapore which recently issued a green bond worth US\$1.1bn. The bonds proceeds are to be channelled into “eligible” projects. HDB has a credit rating and is active in the capital markets.

*The proposal was rejected but the committee noted that voluntary contributions and income from the investments made by the fund are sufficient to supplement the levy collection.*

#### **CLAUSE 9(d)**

41) **KPMG, The Architects Alliance (‘TAA’)** proposed to amend Clause 9 (d) to accurately refer to the appropriate Clause on voluntary contributions. The justification is that Clause 9 (d) states that voluntary contributions made under Clause 38 shall be paid into the Housing Fund. Clause 38 of the Bill does not refer to voluntary contributions. The relevant Clause would be Clause 42.

*The committee adopted the proposal noting that it was cross referencing error*

*The proposal was rejected on the basis that the hustler fund which is derived from taxation provides loans to contributors of the same tax.*

- 46) **KPMG** proposed an amendment to Clause 10 (2) (c) to include the word “in all counties.” The rationale provided is that Clause 10(c) states that the Housing fund shall provide for the setup of affordable housing schemes, without mandating their presence in all counties, as previously worded in the Bill tabled before the National Assembly. The omission of the words "in all counties" could potentially introduce bias. Distributing housing development more evenly across all counties will ensure a more balanced economic outlook across the country.

*The proposal was accepted*

#### **CLAUSE 10**

- 47) **The Ministry of Lands, Public Works, Housing and Urban Development** proposes amendment in Clause 10(2) (1) and (h) to provide services to the assets of the Fund. The justification was the need to be intentional that the Fund will be able to appoint service providers example, estate agents to collect service charge as service providers amongst others.

*The proposal was accepted*

#### **CLAUSE 11**

- 48) **KPMG** proposed that this Clause should capture what happens to funds once allocated, i.e., how they are revolved to complete the flow of funds. It should encompass the mechanisms for the allocation and subsequent revolving of funds to ensure a continuous flow of resources. Additionally, it should stipulate that utilising the fund as a guarantee necessitates significant interventions, such as seeking a credit rating or undergoing a ratings process.

*The proposal was accepted and will be provided for in the Regulations*

- 49) **Kenya Bankers Association** proposed that the Bill allocates 2% of the monies to the Collector yet the purpose for this application has not been stated. Rationale for the allocation is that of the 2% to the Collector should be provided as the Collector has already been receiving the levy from the formal sector.

*The committee has prescribed that the Chief Executive Officer is the ex-officio in the amendments.*

54) **Kenya Bankers Association** proposed that there should be representation from each of the agencies receiving funds such as the National Housing Corporation, projects under the Kenya Slum Upgrading and Low-Cost Housing and the State Department of Housing and Urban Development to ensure free flow and access to information. Rationale Representation of the various agencies will ensure free flow and access to information amongst the agencies. The Board will also leverage on similar projects to achieve economies of scale.

*The proposal was rejected as one of the members of the board is the Principal Secretary responsible of matters affordable housing and is also in charge of the proposed agencies*

## **CLAUSE 15**

55) **Kenya Bankers Association** proposed that taking into consideration the fixed contracts, the appointment of Board members should be staggered for succession planning purposes. The justification is that it is stated that there will be a 5-year affordable housing investment programme hence there should be proper succession planning procedures in place to ensure business continuity.

*The Committee observed that the staggering of appointment of board members is already provided for in the Bill proposal. Further, the Committee proposed an amendment to Clause 23 (1) to provide the tenure of office for the CEO to be 3 years and renewable once.*

56) **Kenya Associations of Manufacturers** proposed –

(a) to insert a new paragraph (j) that allows the Board to enter into Public Private Partnerships.

(b) to insert a new paragraph (k) that gives powers to the Board to make dwellings available for the purpose of sale to eligible applicants under affordable dwelling purchase arrangements and may, in accordance with the Housing Acts and Regulations made under any of those Acts, acquire, build or cause to be built, or otherwise provide or facilitate the provision of, dwellings for that purpose.

61) **Oraro & Company Advocates and Architectural Alliance of Kenya** proposed the addition of a prescribed period of experience in the relevant fields (housing, banking, finance or law) before a person can be appointed as a chairperson or a member of the Board. This is because requiring a minimum level of experience in a certain field ensures that individuals appointed to positions possess the relevant skills, knowledge and expertise to perform their duties effectively. Secondly, the minimum years of experience for the chief executive officer and corporation secretary have been included in Clauses 23(2)(b) and 28(2)(c) respectively.

*The Proposal was accepted and amended to have the position of the chair require a senior management position for at least 10 years in either public or private sector.*

#### **CLAUSE 17**

62) **Kenya Associations of Manufacturers** proposed to delete the word "dishonesty" appearing in paragraph C. This is because the word 'dishonesty' is open to multiple interpretations. It may be abused to remove persons from the Board for other reasons other than, or not connected to corruption.

*The proposal was rejected on the grounds that it appears in the Leadership and Integrity Act.*

#### **CLAUSE 21**

63) **Oraro & Company Advocates** proposed the inclusion of an offence when a member fails to disclose his/her conflict of interest to the Board. The rationale is that it acts as a deterrence to ensure that a member complies with the provisions of this Clause by disclosing a conflict of interest to the other members of the Board.

*The proposal was rejected on the basis that it is not provided for in any statute.*

#### **CLAUSE 23(1)**

64) **Kenya Association of Manufacturers** proposed to add a new subclause that reads as follows- The Chief Executive Officer shall hold office for a term of three years and shall be eligible for reappointment for one further term of three years.

*The proposal was accepted.*

discriminates against foreigners who are in the country either by reason of work or forced migration and yet are required to comply with the provisions of the Act. The provision also contravenes Article 10(2) and 27 of the Constitution on non-discrimination.

*The proposal is misplaced and should refer to Clause 40. The proposal was accepted but to be provided in the Regulations*

#### **CLAUSE 32**

69) **KAM, Rose Wanjiku, Advocate of the High Court** proposed to amend Clause 32 of the Bill and include aspects of sanitation for the Bill to give Article 43(1) (b) full effect. (b) delete Clause 32 of the Bill and replace it with a new Clause 32 which would read- An agency may take- off affordable housing units under an affordable housing scheme if the affordable housing scheme –

- (a) is supported by a report on housing needs;
- (b) is supported by a full environmental impact assessment study;
- (c) has been approved by the agency;
- (d) meets policy and statutory requirements on housing and sanitation standards;
- (e) and e. meets any other criteria or conditions set by the agency.

*The committee observed that the proposal was wrongly cross referenced and should refer to Clause 40. The proposal was accepted subject to it being provided for in the Regulations.*

#### **CLAUSES 33, 34, 35 AND 36**

70) **Oraro & Company Advocates** proposed the addition of the word “administrator of the” immediately before the word “Fund”. Rationale a) Firstly, the Fund is not an entity established in the Bill to administer the Fund) Secondly, the chief executive officer is the entity established in the Bill to be the administrator of the fund as indicated in Clauses 2 and 24 of the Bill.

*The proposal was accepted was accepted with amendments and in its place to read “board of the fund”*

#### **CLAUSE 38-**

74) **The Ministry of Lands, Public Works, Housing and Urban Development-** proposed that a person or body corporate shall be eligible to be allocated an affordable housing unit subject to the requirements of section 31 given that The Eligibility Criteria has been moved to Regulations so this is misplaced and should be deleted.

*The committee accepted to move part of the eligibility criteria to Regulations.*

#### **CLAUSE 38 & 39**

75) **KPMG, Kenya Manufacturers Authority, Cliffe Dekker Hofmeyr and The Architects Alliance ('TAA')** proposed that Clause 38 and 39 make reference to Clauses that are no longer related to the eligibility criteria.

*The committee agrees with this observation and the reference to Clause 30 and 31 is corrected in amendments.*

#### **CLAUSE 39**

76) **Vincent Muiruri** proposed that the Levy to form the part deposit required during allocation of houses.

*The proposal was rejected on the basis that the contributions are a tax and not a saving.*

77) **The Ministry of Lands, Public Works, Housing and Urban Development informs** that Clause 30 referenced is misplaced given that was a Cross referencing issue and there is no allocation criteria in the Bill as it was moved to Regulations.

*The committee noted the cross-referencing error and adopted it.*

#### **CLAUSE 40(b)**

78) **Oraro & Company Advocates** proposed that the policy and statutory requirements are listed in this Clause. This rationale is that it enhances clarity by listing the policy and statutory requirements that have been omitted from this Clause.

*The proposal was accepted and to be provided for in Regulations.*

(b)means testing instrument" means a set of indicators that capture various economic aspects of an individual for purposes of conducting means testing. The rationale behind this proposal was to give clarity to the meaning of the words being introduced.

*The proposal was rejected on the basis that there was no reference in the Bill.*

#### **NEW CLAUSE**

84) **Vincent Muiruri** proposed that the levy be introduced as part VAT which will cover most Kenyans.

*The proposal was rejected on the basis that it will complicate its collection.*

85) **KPMG-Inclusion of incentives** proposed that the Bill should include tax incentives to encourage corporations to provide a gift or donation under Clause 9 of the Bill. The justification is that by offering reduced tax liabilities or credits, governments can stimulate greater participation and support for housing initiatives.

*The proposal was rejected on the basis that it will negate the purpose of the bill.*

86) **KPMG-** also proposed that the Bill introduces property tax relief for individuals who are contributing to the levy. This can be achieved by providing subsidies for payments on land rates and land rent to homeowners who are already burdened with paying mortgages and property taxes, in addition to the housing levy. The justification is that many homeowners face significant financial burdens, including mortgage payments, property taxes, and now the housing levy. Introducing property tax relief helps alleviate this burden, especially for those struggling to make ends meet.

*The proposal was rejected on the ground that it will negate the purpose of the bill.*

87) **Peter Kimeci** submitted that being a national housing Bill, he urged the Senate to consider including an amendment for the fund to-  
Support every Kenyan who starts to build their own houses for own use (not for commercial use) by:

- a. Paying for the plans of the house
- b. Paying all relevant fees for approval of the house plans
- c. Paying for inspections fee and cite supervision by accredited engineers

## CHAPTER THREE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

### 4.1 COMMITTEE OBSERVATIONS

- a) That the Affordable Housing Bill, 2023 (National Assembly Bills No. 75 of 2023) was a levy Bill that sought to create jobs, enhance economic vibrancy in the country as well as offer decent and affordable housing to Kenyans;
- b) Part V Clause 41 (4) does not clarify how a person making voluntary savings with the fund for purposes of raising deposits towards the allocation of a housing unit will know their lack of eligibility for purposes of deposits withdrawal;
- c) That the Bill did not have a provision for Affordable House developments to persons who would wish to have the houses constructed on their own land and not on government land;
- d) Clause 11 (1) (b) was not clear whether persons housed in institutional housing units have the right to acquire and permanently occupy structures build for public officers' occupancy;
- e) Cultural issues in housing needs were not addressed in the design of housing units;
- f) Most of the affordable houses did not meet the needs of the targeted groups in terms of family size and cultural dynamics;
- g) That the levy contributions were to boost the inadequate national budgetary allocation towards development of affordable housing units with the expected collections from the Housing Levy being Ksh. 6.5 billion per month;
- h) There was no provision on how the Housing Levy Fund will finance the three typologies of housing units as provided in Clause 2(2) (a) to (c);
- i) The Bill did not incorporate cultural preferences and the lifestyles of different ethnicities in the implementation of the affordable housing programme in counties.

- f) Insert a new Clause to provide for County Affordable Housing Committees in all the counties and provide for the functions of the Committees and its linkage with the Affordable Housing Board.

*The amendment is meant to cater for unique housing needs while preserving cultural needs and identity of the lifestyles of the diverse communities in counties.*

# APPENDIX 1



**MINUTES OF THE SIXTY FIRST SITTING OF THE STANDING COMMITTEE  
ON ROADS, TRANSPORTATION AND HOUSING HELD ON FRIDAY, 1<sup>ST</sup>  
MARCH, 2024 AT 9.00 A.M. AT THE AMPHITHEATRE, KICC BUILDING.**

**PRESENT**

- |                                  |                     |
|----------------------------------|---------------------|
| 1. Sen. Paul Karungo Thangwa, MP | - Chairperson       |
| 2. Sen. Peris Tobiko, CBS, MP    | - Vice –Chairperson |
| 3. Sen. Enoch Kiio Wambua, MP    | - Member            |
| 4. Sen. Edwin Watenya Sifuna, MP | - Member            |
| 5. Sen. Mohamed Said Chute , MP  | - Member            |

**APOLOGIES**

- |   |          |
|---|----------|
| 1. Sen. (Rtd)Justice Stewart Madzayo, CBS, MP | - Member |
| 2. Sen. John Kinyua Nderitu, MP               | - Member |
| 3. Sen. (Dr.) I.clegwe Ltumbesi, CBS, MP      | - Member |
| 4. Sen. Moscs Kajwang', CBS, MP               | - Member |

**SECRETARIAT**

- |                         |                              |
|-------------------------|------------------------------|
| 1. Mr. Charles Ngatia   | - Clerk Assistant I          |
| 2. Ms. Peris Mukuria    | - Clerk Assistant III        |
| 3. Mr. Malcom Lee Ngugi | -Legal Counsel               |
| 4. Ms. Lorna Okatch     | - Research Officer II        |
| 5. Ms. Janice Naserian  | - Research Officer III       |
| 6. Mr. Ian Otieno       | - Audio Officer              |
| 7. Mr. John I.ckampule  | - Assistant Sergeant-At-Arms |
| 8. Mr. Caleb Njogu      | - Intern                     |

**MIN/SEN/RTH/359/2024**

**PRELIMINARIES**

The meeting was called to order at nine O'clock and commenced with a word of prayer by Sen. Paul Karungo Thangwa, MP.

**MIN/SEN/RTH/360/2024**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. Mohamed Said Chute, MP and seconded by Sen. Enoch Kiio Wambua, MP as follows –

1. Prayer;



**MINUTES OF THE SIXTY SECOND SITTING OF THE STANDING COMMITTEE ON ROADS, TRANSPORTATION AND HOUSING HELD ON FRIDAY, 1<sup>ST</sup> MARCH, 2024 AT 10.30 A.M. AT THE AMPHITHEATRE, KICC BUILDING.**

**PRESENT**

- |                                  |                     |
|----------------------------------|---------------------|
| 1. Sen. Paul Karungo Thangwa, MP | - Chairperson       |
| 2. Sen. Peris Tobiko, CBS, MP    | - Vice –Chairperson |
| 3. Sen. Enoch Kiio Wambua, MP    | - Member            |
| 4. Sen. Edwin Watinya Sifuna, MP | - Member            |
| 5. Sen. Mohamed Said Chute , MP  | - Member            |

**ABSENT WITH APOLOGY**

- |  |          |
|--|----------|
| 1. Sen. John Nderitu, MP                       | - Member |
| 2. Sen. (Rtd) Justice Stewart Madzayo, CBS, MP | - Member |
| 3. Sen. (Dr.) J.legwe Ltumbesi, CBS, MP        | - Member |
| 4. Sen. Moses Kajwang', CBS, MP                | - Member |

**IN ATTENDANCE**

**ARCHITECTS ASSOCIATION OF KENYA & ARCHITECTS ALLIANCE**

- |                               |                          |
|-------------------------------|--------------------------|
| 1. Sen. (Arch) Sylvia Kasanga | -The Architects Alliance |
| 2. Arch. G. A. Ndege          | -AAK Vice President      |

**MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT**

- |                        |                        |
|------------------------|------------------------|
| 1 Hon Alice M Wahome   | - CS Ministry of Lands |
| 2 Mr. Charles Hinga    | - PS Housing           |
| 3 Eng. B. K Njenga     | - Secretary Urban      |
| 4 Mr. John Muya        | - Secretary Admin      |
| 5 Mr. Ismail Chemjong  | - Adviser to the CS    |
| 6 Mr. Eric             | - Technical PA to CS   |
| 7 Arch Duncan Imbamba  | - D/D CSHD             |
| 8 Eng. Byron Buyu      | - Ag. Secretary IPDU   |
| 9 Ms. Eunice Gathoni   | - Deputy Director      |
| 10 Ms. Stella Muthungu | - SD HUD-TALKS         |

4. That the process of public participation should not end with the Bill process but should be continuous to ensure that all projects represent the needs of the targeted occupants;
5. That the representation in the Board should include a person with background in Architecture so as to recognize the distinctive roles of professionals within the construction field and specialized expertise required for successful implementation of affordable housing projects;
6. The definition of affordable housing unit in Clause 2 stating the typology of housing units should not be provided for in the Bill but rather in the Regulations; and
7. The Bill should provide for Affordable Housing Committees at county levels to guide and advise on designs and needs suitable for people in the different counties and soils types for the areas.

The Committee noted the submissions of the Architects Association of Kenya and made the following observations and resolutions-

1. The purpose of the Bill was not clear as to whether the Bill sought to provide housing, create employment or raise revenue for the housing programme;
2. Cultural issues in housing needs were not addressed in the design of housing units;
3. Most of the affordable houses did not meet the needs of the targeted groups in terms of family size and cultural dynamics; and
4. The structural designs of the housing units did not provide for adequate lighting and ventilation. The Pangani Affordable Housing units for instance lacked natural lighting and had limited ventilation and the size of rooms were small.

**CABINET SECRETARY MINISTRY OF LANDS, PUBLIC WORKS, HOUSING & URBAN DEVELOPMENT**

The Cabinet Secretary Ministry of Lands, Public Works, Housing & Urban Development informed the Committee as follows-

1. That the Affordable Housing Bill, 2023 (National Assembly Bills No.75 of 2023 was a levy Bill that sought to create jobs, enhance economic vibrancy in the country as well as offer decent and affordable housing to Kenyans;
2. That the levy contributions were to boost the inadequate national budget allocation towards affordable housing with the expected collections from housing levy being Ksh. 6.5 billion per month;
3. That housing levy contribution through tax was not a guarantee of being allocated a housing unit for ownership;
4. That the Bill provided for three typologies of housing units –
  - a) Social housing - plinth area of at least 1/8<sup>th</sup> square meters with targeted persons of a monthly income of below Ksh.20,000;
  - b) Affordable houses - plinth area of at least 30 square meters with targeted persons of monthly income of between Ksh.20,000 and Ksh.149,000; and

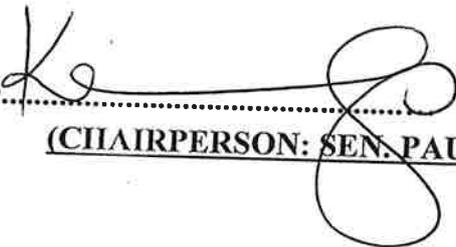
8. The Bill should provide for County Boards at County level to guide and advise on designs suitable for people in the counties and soil types for different areas;
9. Definition of affordable housing in clause 2 be amended to remove all definitions of the size of the unit and this to be stipulated in Regulations;
10. Clause 12(3) to be amended by deleting the word 'National Assembly' and replacing it thereafter with the word "Parliament";
11. To amend clause 13(3) by deleting the word "National Assembly" and replacing it with the word "Parliament"; and
12. Amend clause 42 (4) to provide options to access mortgage scheme to finance development of an affordable housing unit on private land;
13. Amend clause 14(3) d (i) to increase the number of nominees of the Council of County Governors so as increase representation of counties in the Board arising from the fact that majority of the affordable housing programs will be implemented on county government land;

MIN/SEN/RTH/366/2024

ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at forty minutes past One O'clock.

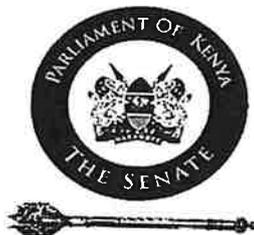
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DATE.....

7<sup>th</sup> March 2024  
 K → 80  
 2023

(CHAIRPERSON: SEN. PAUL KARUNGO THANGWA, MP)



**MINUTES OF THE SIXTY THIRD SITTING OF THE STANDING COMMITTEE  
ON ROADS, TRANSPORTATION AND HOUSING HELD ON FRIDAY, 1<sup>ST</sup>  
MARCH, 2024 AT 01.45 P.M. AT THE AMPHITHEATRE, KICC BUILDING.**

**PRESENT**

- |                                  |                    |
|----------------------------------|--------------------|
| 1. Sen. Paul Karungo Thangwa, MP | - Chairperson      |
| 2. Sen. Peris Tobiko, CBS, MP    | - Vice Chairperson |
| 3. Sen. Mohamed Said Chute, MP   | - Member           |

**ABSENT WITH APOLOGY**

- |  |          |
|--|----------|
| 1. Sen. John Nderitu, MP                       | - Member |
| 2. Sen. (Rtd) Justice Stewart Madzayo, CBS, MP | - Member |
| 3. Sen. Edwin Watenya Sifuna, MP               | - Member |
| 4. Sen. Enoch Kiio Wambua, MP                  | - Member |
| 5. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP        | - Member |
| 6. Sen. Moses Kajwang', CBS, MP                | - Member |

**IN ATTENDANCE**

- |                               |                                    |
|-------------------------------|------------------------------------|
| 1. Mr. Bernard Mwangi Gichuki | - Gikomba Artisan                  |
| 2. Ms. Magdalene Wahiga       | - Gikomba Artisan                  |
| 3. Mr. Peter Ndiritu Ndirangu | - Gikomba Artisan                  |
| 4. Mr. Samuel Oloo            | - Jua Kali National Association    |
| 5. Mr. Daniel Kigathi         | - Matatu Stage Welfare Association |
| 6. Mr. Tony Ogello            | - Sec Gen. kamukunji G.A.          |
| 7. Mr. Peter Mwena            | - Jua Kali National Association    |

**SECRETARIAT**

- |                         |                              |
|-------------------------|------------------------------|
| 1. Mr. Charles Ngatia   | - Clerk Assistant I          |
| 2. Ms. Peris Mukuria    | - Clerk Assistant III        |
| 1. Mr. Malcom Lee Ngugi | - Legal Counsel I            |
| 2. Ms. Lorna Okatch     | - Research Officer II        |
| 3. Ms. Janice Naserian  | - Research Officer III       |
| 4. Mr. Ian Otieno       | - Audio Officer              |
| 5. Mr. John Lckampule   | - Assistant Sergeant-At-Arms |
| 6. Mr. Caleb Njogu      | - Intern                     |

1. That the Association supports the affordable housing Bill as it is in line with vision 2030 and will further ensure there is decent and affordable housing for the matatu workers who mostly reside in the slums;
2. That the programme will also solve a society problem of feeling disfranchised and if given a decent house, the residents in slums will feel honored;
3. That matatu workers cannot access mortgage and credit facilities due to the nature of their jobs and therefore the Affordable Housing Programme would offer a solution;
4. That the Association has over 8,000 members who are currently making daily contribution of Ksh. 200 towards ownership of houses; and
5. That allocation of houses should be done in a manner that accommodates all groups.

The Committee noted the contents of the submissions for the *Jua Kali* Association of Kenya and the Matatu Welfare Association and made the following resolutions –

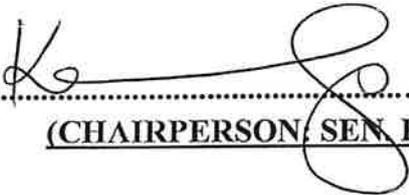
1. That climate action be incorporated while designing projects; and
2. That Clause 14 to be amended to provide for informal sector representation in the County Affordable Housing Board.

MIN/SEN/RTH/369/2024

ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at thirty-seven minutes past Two O'clock.

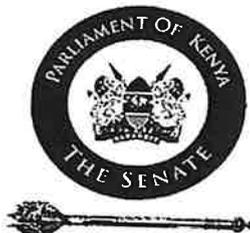
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(CHAIRPERSON, SEN. PAUL KARUNGO THANGWA, MP)

DATE.....

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



**MINUTES OF THE SIXTY FORTH SITTING OF THE STANDING COMMITTEE  
ON ROADS, TRANSPORTATION AND HOUSING HELD ON TUESDAY, 5<sup>TH</sup>  
MARCH, 2024 AT 11.00 A.M. AT THE LAKE TURKANA, KICC BUILDING.**

**PRESENT**

- |   |                     |
|---|---------------------|
| 1. Sen. Paul Karungo Thangwa, MP              | - Chairperson       |
| 2. Sen. Peris Tobiko, CBS, MP                 | - Vice –Chairperson |
| 3. Sen. Mohamed Said Chute , MP               | - Member            |
| 4. Sen. John Kinyua, MP                       | - Member            |
| 5. Sen. (Rtd)Justice Stewart Madzayo, CBS, MP | - Member            |
| 6. Sen. Enoch Kiiio Wambua, MP                | - Member            |
| 7. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP       | - Member            |

**ABSENT WITH APOLOGY**

- |                                  |          |
|----------------------------------|----------|
| 1. Sen. Edwin Watanya Sifuna, MP | - Member |
| 2. Sen. Moses Kajwang', CBS, MP  | - Member |

**SECRETARIAT**

- |                          |                              |
|--------------------------|------------------------------|
| 1. Mr. Charles Ngatia    | - Clerk Assistant I          |
| 2. Ms. Peris Mukuria     | - Clerk Assistant III        |
| 3. Ms. Sombe Toona       | - Legal Counsel I            |
| 1. Mr. Malcom Lee Ngugi  | - Legal Counsel I            |
| 2. Mr. Washington Otiato | -Media Relations Officer     |
| 3. Ms. Lorna Okatch      | - Research Officer II        |
| 4. Ms. Janice Naserian   | - Research Officer III       |
| 5. Mr. Ian Otieno        | - Audio Officer              |
| 6. Mr. Mohamed Ibrahim   | - Assistant Sergeant-At-Arms |
| 7. Mr. Caleb Njogu       | - Intern                     |

**MIN/SEN/RTH/370/2024**

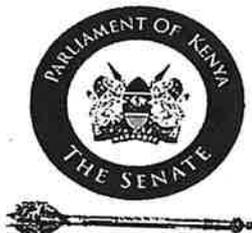
**PRELIMINARIES**

The meeting was called to order at half past eleven O'clock and commenced with a word of prayer by Sen. Paul Karungo Thangwa, MP.

**MIN/SEN/RTH/371/2024**

**ADOPTION OF THE AGENDA**

4. Clause 2 on definition of gross salary by Kenya Bankers Association and KPMG – the proposal was rejected on the ground that KRA had a system of determining gross salary and gross income;
5. Clause 2(2) on the definition of affordable housing unit in regards to plinth area of the units by Kenya Association of Manufactures- the Committee resolved to reject the proposal since an increase of plinth area of the affordable housing unit would increase the cost of construction thereby rendering the house unaffordable;
6. Clause 4(2) on determination of income for non-salaried persons by Kenya Bankers Association- the proposal was accepted as an incorporation in the regulations to be issued by the Cabinet Secretary Treasury;
7. Clause 2 on definition of institutional housing by TUK- the Committee rejected the proposal since the definition provided in the bill was sufficient;
8. Clause 3(a) on the rights to accessible and adequate housing for citizens by Kenya Bankers Association- the proposal was rejected as the government raises revenue through taxation to provide for the rights of its citizens and the levy is part of the tax.
9. Clause 4(2) (a) and (b) by Kenya Bankers Association on composition of gross salary /income – the proposal was accepted with an amendment for the CS treasury to make the regulation on the matter;
10. Clause 4 KPMG proposed to amend the bill to restrict the levy to a one-time remittance- the committee accepted the proposal and recommended it be actualized in regulations;
11. Clause 4 by KPMG/KBA and KAM to make the contribution voluntary- the committee dropped the proposal since the government requires the levy to finance the affordable housing programme;
12. Clause 4 by Mr. Vincent Muturi, KBA, and KAM to have a maximum limit on the contribution –the Committee rejected the proposal and retain the levy as provided in the Bill to ensure equity;
13. Clause 4 as read together as clause 5 and 7
  - a) On revision of levy rates contributions, the proposal was rejected and the committee resolved to retain the provision as provided the Bill;
  - b) On the proposal on exit option, the proposal was rejected as the levy was a tax and hence a mandatory deduction; however, the Committee has proposed an exit option for those with voluntary contributions;
  - c) On the proposal to suspend collection of the levy on salaried persons pending determination of the court, the Committee rejected this proposal since it is provided for in this Bill which is not subject to the court ruling.



**MINUTES OF THE SIXTY FIFTH SITTING OF THE STANDING COMMITTEE  
ON ROADS, TRANSPORTATION AND HOUSING HELD ON WEDNESDAY, 6<sup>TH</sup>  
MARCH, 2024 AT 8.00 A.M. AT THE LAKE TURKANA ROOM, KICC  
BUILDING.**

**PRESENT**

- |   |                     |
|---|---------------------|
| 1. Sen. Paul Karungo Thangwa, MP              | - Chairperson       |
| 2. Sen. Peris Tobiko, CBS, MP                 | - Vice –Chairperson |
| 3. Sen. Mohamed Said Chute , MP               | - Member            |
| 4. Sen. John Kinyua, MP                       | - Member            |
| 5. Sen. (Rtd)Justice Stewart Madzayo, CBS, MP | - Member            |
| 6. Sen. Enoch Kiiio Wambua, MP                | - Member            |
| 7. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP       | - Member            |

**ABSENT WITH APOLOGY**

- |                                  |          |
|----------------------------------|----------|
| 1. Sen. Edwin Watenya Sifuna, MP | - Member |
| 2. Sen. Moses Kajwang', CBS, MP  | - Member |

**SECRETARIAT**

- |                         |                              |
|-------------------------|------------------------------|
| 1. Mr. Charles Ngatia   | - Clerk Assistant I          |
| 2. Ms. Peris Mukuria    | - Clerk Assistant III        |
| 3. Ms. Sombe Toona      | - Legal Counsel I            |
| 1. Mr. Malcom Lee Ngugi | - Legal Counsel I            |
| 2. Ms. Lorna Okatch     | - Research Officer II        |
| 3. Ms. Janice Naserian  | - Research Officer III       |
| 4. Mr. Ian Otieno       | - Audio Officer              |
| 5. Mr. Mohamed Ibrahim  | - Assistant Sergeant-At-Arms |
| 6. Mr. Caleb Njogu      | - Intern                     |

**MIN/SEN/RTH/375/2024**

**PRELIMINARIES**

The meeting was called to order at half past Eight O'clock and commenced with a word of prayer by Sen. Paul Karungo Thangwa, MP.

**MIN/SEN/RTH/376/2024**

**ADOPTION OF THE AGENDA**

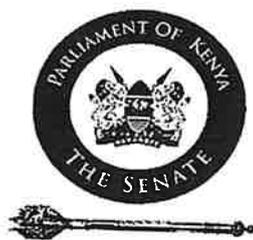
5. Clause 6 on exemption on imposition of the levy by KAM and Mr. Vincent Muiruri -the proposal was accepted;
6. Clause 7 on recovery of levy from defaulters by KAM - the proposal was rejected as it was misplaced. However, the Committee proposed a 3 % penalty on default per month;
7. Clause 7 by KBA where they proposed for a dispute resolution mechanism and a provision of updating the employment / income status on I-Tax was accepted subject to the provision being made in the regulations;
8. Clause 8 by KAM that the fund be managed by the Board or a housing authority was rejected as the Board of the fund is the one managing the fund;
9. Clause 10 by KMA to amend the purpose of the fund to include the design and maintenance of the affordable housing and associated social and physical infrastructure- the Committee proposed to include aspects of design and maintenance as stipulated on purpose of the funds;
10. Clause 10 by KPMG on the purpose of the fund to be a revolving fund for transparency –the Committee observed that proposal was already provided for in clause 43 (1);
11. Clause 10 (2) (c) proposal by KPMG to insert the words “in all counties” after the word “schemes”-the proposal was adopted;
12. Clause 11 on what happens to the funds after allocation by KPMG. The proposal was accepted and The Committee noted that this should be provided for in regulations;
13. Clause 11 (4) (a) proposal by KBA on the allocation of 2% of the monies to the collector to be amended to 0.5 % to the collector (KRA) and 2% to the Board;
14. Clause 13 (1) by KBA on the annual investment programme oversight- the Committee adopted this proposal and additionally proposed the inclusion of National Construction Authority and the State Department for Public Works as implementing agencies in the Third Schedule;
15. Clause 14 (2) by KBA proposed for an explicit prescription of who was the ex-official member of the Board - the Committee adopted the proposal and prescribed that the CEO is the ex-official member of the Board;
16. Clause 14 (3) by KBA to include representation of implementing agencies in the Board the Committee rejected the proposal as one of the members of the Board is the Principal Secretary responsible of matters affordable housing and is also in charge of the proposed agencies;
17. Clause 15(1) by KBA on staggered appointment of Board members - the Committee observed that the provision is already provided for in the Bill under clause 14(6);
18. Clause 15 (2) by KAM to provide for the Board to enter into PPP – The Committee observed that the this was already provided for in the Bill;
19. Clause 14 (3) by KMA on composition of the Board was not adopted.
20. Clause 15 by Cliffe Dekker Hofmeyr on a proposal for data collection in collaboration with stake holders to develop the means testing instruments –the

34. Clause 38 by KPMG and Cliffe Dekker Hofmeyr to restrict beneficiaries to one unit. This was accepted and that the beneficiaries should be individual persons and not body corporates;
35. Clause 38 and 39 by Cliffe Dekker Hofmeyr, KPMG, KAM, TAA -the Committee resolved to amend section 38 to clarify that the reference to "person" means natural person, that an applicant is only eligible to receive one house and the CS to provides further eligibility criteria;
36. Clause 39 by Vincent Muiruri proposing that the contributions be used as deposits during allocation of houses was rejected since the contributions are a tax and not a savings;
37. Clause 40 (b) Oraro & Company Advocates proposing listing policies and statutory requirements for off taking by the Board was accepted and to be provided for in regulations;
38. Clause 41 by Vincent Muiruri to define interest on loan interest rates to 3 % -the Committee observed that the interest rate should be provided for in the regulations;
39. Clause 44 Cliffe Dekker Hofmeyr on the penalty of misappropriation of fund was accepted with amendments of a fine ksh, 20,000,000 and imprisonment of 10, years or to both;
40. Clause 47 by Cliffe Dekker Hofmeyr to delete clause 47 2(b) was accepted;
41. Clause 49 (1) Oraro & Company Advocates proposing correction of typographical error was accepted;
42. Clause 49 (1) by Cliffe Dekker Hofmeyr introducing a definition for the term "means testing" and means testing was rejected on the basis that there was no reference to the terms in the Bill;
43. New clause by Vincent Muiruri proposing that the levy be introduced as part of VAT was dropped on the basis that it would complicate its collection;
44. New clause by KPMG proposing to have inclusion of tax incentives to encourage gifts and donations by corporations was rejected on the basis that it would negate the purpose of the Bill;
45. New clause by Peter Kimei to support Kenyans who wish to own houses for occupation was accepted but to be provided in regulations under the rural affordable housing using voluntary contributions as collateral or deposits; and
46. New clause by KPMG to introduce property tax relief for individuals who contribute to the levy was not accepted by the Committee.

**MIN/SEN/RTH/379/2024**

**ADJOURNMENT AND DATE OF THE NEXT MEETING**

There being no other business, the meeting was adjourned at Six Minutes Past Eleven O'clock.



**MINUTES OF THE SIXTY-SIX SITTING OF THE STANDING COMMITTEE ON  
ROADS, TRANSPORTATION AND HOUSING HELD ON WEDNESDAY, 6<sup>TH</sup>  
MARCH, 2024 AT 01.00 P.M. AT THE LAKE TURKANA ROOM, KICC  
BUILDING.**

**PRESENT**

- |   |                     |
|---|---------------------|
| 1. Sen. Paul Karungo Thangwa, MP        | - Chairperson       |
| 2. Sen. Peris Tobiko, CBS, MP           | - Vice –Chairperson |
| 3. Sen. Mohamed Said Chute , MP         | - Member            |
| 4. Sen. John Kinyua Nderitu, MP         | - Member            |
| 5. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP | - Member            |

**ABSENT WITH APOLOGY**

- |   |          |
|---|----------|
| 1. Sen. Edwin Watanya Sifuna, MP              | - Member |
| 2. Sen. Moses Kajwang', CBS, MP               | - Member |
| 3. Sen. (Rtd)Justice Stewart Madzayo, CBS, MP | - Member |
| 4. Sen. Enoch Kiio Wambua, MP                 | - Member |

**SECRETARIAT**

- |                         |                              |
|-------------------------|------------------------------|
| 1. Mr. Charles Ngatia   | - Clerk Assistant I          |
| 2. Ms. Peris Mukuria    | - Clerk Assistant III        |
| 3. Ms. Sombe Toona      | - Legal Counsel I            |
| 4. Mr. Malcom Lee Ngugi | - Legal Counsel I            |
| 5. Ms. Lorna Okatch     | - Research Officer II        |
| 6. Ms. Janicc Naserian  | - Research Officer III       |
| 7. Mr. Ian Otieno       | - Audio Officer              |
| 8. Mr. Mohamed Ibrahim  | - Assistant Sergeant-At-Arms |
| 9. Mr. Caleb Njogu      | - Intern                     |

**MIN/SEN/RTII/380/2024**

**PRELIMINARIES**

The meeting was called to order at Six Minutes past One O'clock and commenced with a word of prayer by Sen. Paul Karungo Thangwa, MP.

MIN/SEN/RTII/383/2024

MATTERS ARISING

EX-MIN/SEN/RTII/378/2024

CONSIDERATION OF THE MATRIX.

The Committee noted that the County Committees would need to be capacitated to carry out their mandates and therefore it is necessary to provide them with an allocation of not less than 0.5% from the funds for administration purposes. Further, they noted that this should be issued as a conditional grant.

MIN/SEN/RTII/384/2024

CONSIDERATION AND ADOPTION OF THE  
REPORT ON THE AFFORDABLE HOUSING  
BILL, 2023 (NATIONAL ASSEMBLY BILLS  
NO.75 OF 2023)

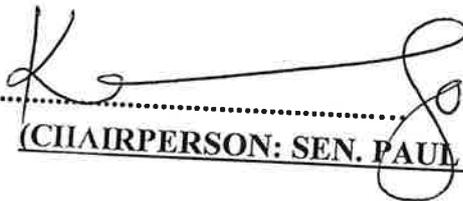
The Committee considered and adopted the report on the Affordable Housing Bill, 2023 (National Assembly Bills No.75 of 2023) having been proposed by Sen. Mohamed Said Chute, MP and adopted by Sen John Kinyua, MP.

MIN/SEN/RTII/381/2024

ADJOURNMENT AND DATE OF THE NEXT  
MEETING

There being no other business, the meeting was adjourned at Two O'clock.

SIGNED.....



DATE.....

7th March 2024

(CHAIRPERSON: SEN. PAUL KARUNGO THANGWA, MP)



**MINUTES OF THE SIXTY-SEVENTH SITTING OF THE STANDING COMMITTEE ON ROADS, TRANSPORTATION AND HOUSING HELD ON THURSDAY, 7<sup>TH</sup> MARCH, 2024 AT 11.30 A.M. AT THE BILATERAL ROOM III, KICC BUILDING.**

**PRESENT**

- |   |                     |
|---|---------------------|
| 1. Sen. Paul Karungo Thangwa, MP        | - Chairperson       |
| 2. Sen. Peris Tobiko, CBS, MP           | - Vice –Chairperson |
| 3. Sen. Mohamed Said Chute , MP         | - Member            |
| 4. Sen. John Nderitu, MP                | - Member            |
| 5. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP | - Member            |
| 6. Sen. Enoch Kiio Wambua, MP           | - Member            |

**ABSENT WITH APOLOGY**

- |   |          |
|---|----------|
| 1. Sen. Edwin Watinya Sifuna, MP              | - Member |
| 2. Sen. Moses Kajwang', CBS, MP               | - Member |
| 3. Sen. (Rtd)Justice Stewart Madzayo, CBS, MP | - Member |

**SECRETARIAT**

- |                         |                              |
|-------------------------|------------------------------|
| 1. Mr. Charles Ngatia   | - Clerk Assistant I          |
| 2. Ms. Peris Mukuria    | - Clerk Assistant III        |
| 3. Ms. Sombe Toona      | - Legal Counsel I            |
| 4. Mr. Malcom Lee Ngugi | - Legal Counsel I            |
| 5. Ms. Lorna Okatch     | - Research Officer II        |
| 6. Mr. Ian Otieno       | - Audio Officer              |
| 7. Mr. Mohamed Ibrahim  | - Assistant Sergeant-At-Arms |
| 8. Mr. Caleb Njogu      | - Intern                     |

**MIN/SEN/RTH/382/2024**

**PRELIMINARIES**

The meeting was called to order at noon and commenced with a word of prayer by Sen. Paul Karungo Thangwa, MP.

- a) Any ongoing project or programme funded under section (2) shall be deemed to be a project or programme funded under this Act and shall continue to be implemented after the commencement of this Act.
4. Amend clause 31F by inserting a new clause immediately after clause 31E on the duties of the County Board –
- a) In collaboration with the Board, develop a framework for attainment of affordable housing in the country;

**MIN/SEN/RTH/386/2024**

**ADOPTION OF COMMITTEE STAGE AMENDMENTS ON THE AFFORDABLE HOUSING BILL, 2023 (NATIONAL ASSEMBLY BILLS NO.75 OF 2023)**

The Committee Stage Amendments of the Affordable Housing Bill, 2023 (National Assembly Bills No.75 of 2023) were adopted having been proposed by Sen. Mohamed Said Chute, MP and Seconded by Sen. John Kinyua, MP.

**MIN/SEN/RTH/387/2024**

**ADOPTION OF REPORT ON THE AFFORDABLE HOUSING BILL, 2023 (NATIONAL ASSEMBLY BILLS NO.75 OF 2023)**

The Report on the Affordable Housing Bill, 2023 (National Assembly Bills No.75 of 2023) was adopted having been proposed by Sen. Peris Tobiko, CBS, MP and Seconded by Sen. Mohamed Said Chute, MP.

**MIN/SEN/RTH/388/2024**

**ADJOURNMENT AND DATE OF THE NEXT MEETING**

There being no other business, the meeting was adjourned at Twenty-Eight minutes past One O'clock.

SIGNED.....

DATE.....

**(CHAIRPERSON: SEN. PAUL KARUNGO THANGWA, MP)**

# APPENDIX 2

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | THIRD SESSION

.....

STANDING COMMITTEE ON ROADS, TRANSPORTATION AND HOUSING

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SUBMISSION MATRIX ON THE AFFORDABLE HOUSING BILL, 2023 (NATIONAL ASSEMBLY BILLS  
NO. 75 OF 2023)

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
<p><b>Clause 2 (1)</b> Interpretation</p>	<p>The Architectural Association of Kenya</p>	<p><u>Proposal</u> The definition of affordable housing should be expanded to include essential elements such as integrated and inclusive infrastructure and services explicitly. Affordable housing should not only be financially accessible but also inherently equipped with the necessary infrastructure and services to ensure its functionality and livability.</p> <p><u>Rationale</u> The definition of affordable housing falls short of encompassing the holistic functionality of a dwelling.</p>	<p>The Committee noted that the definition of affordable housing relates to the type of housing and the category of income earner that it is availed for.</p>	<p>The Committee rejected the proposal.</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		changes to the 30% rule based on the expertise of the credit reviewing agencies.		
<p><b>Clause 2 (1)</b> Interpretation</p>	<p>Cliffe Dekker Hofmeyr</p>	<p><u>Proposal</u> The definition of Levy be amended to read as " Levy means a contribution to the fund as prescribed under section 4 of this Act for purposes of development of affordable housing.</p> <p><u>Rationale</u> The proposed amendment will bring clarity to the definition of the term levy and the Affordable Housing Levy in general. Secondly, the definition will also bring in the intention of the Affordable Housing being a contribution and not a</p>	<p>The Committee noted that the definition of levy in the Bill was sufficient.</p>	<p>The Committee resolved not to adopt the proposal as it was already provided for in the Bill.</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		<p>arbitrary interpretations. According to the Kenya Bankers Association the directives on what constitutes gross by KRA is illegal.</p> <p>Since non-salaried individuals will be required to contribute to the levy, there is need for a formula to determine the gross income of non-salaried individuals.</p> <p>The lack of definition will have a ripple effect on the payroll and the 1.5% by employers based on the gross deduction of employees.</p>		

enough to guide the provision of affordable housing.

- The middle to high income earners will also be repaying loans taken for the houses at a rate of 9%.
- At that high rate, compared to the other rates of 3%, the houses need to be bigger.

(c) The Committee noted that the original Bill provided for repayment interest terms under clause 36 but the Bill as passed by the National Assembly lacks the provision. Nevertheless, the Committee took the view that the interest should ordinarily be contained in subsidiary legislation proposed by the CS

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		<p>is the duty of the State to help realize said rights, including the right to housing, and not the mandate of the private citizens as imposed by the housing levy.</p>	<p><i>were to be taken by the State to progressively realise the right to affordable housing.</i> The Bill is therefore a legislative proposal that seeks to ensure the realisation of the right.</p> <p>Further the Committee observed that the government raises revenue through levies and other means to provide for its citizens' rights and therefore the provision of housing under Article 43(1)(b) would require the government to raise revenue.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		individuals and ensure equity amongst Kenyans.		
<p><b>Clause 4 (2)</b> Imposition of Levy</p>	<p>Kenya Bankers' Association</p>	<p><u>Proposal</u> a) Deductions should be made on employees' basic salary and not the gross salary which include benefits that accrue due to special consideration such as hardship allowances. b) For persons with income from other sources besides employment, the Levy shall be at the rate of 1.5% of the additional gross income of a person received or accrued.</p>	<p>The Committee noted that the Bill seeks to collect the levy against both gross income and gross salary and not basic salary.</p>	<p>The Committee rejected the proposal.</p>
<p><b>Clause 4</b> Imposition of Levy</p>	<p>KPMG</p>	<p><u>Proposal</u></p>	<p>The Committee noted that the Bill seeks to charge both gross income and gross salary.</p>	<p>The Committee rejected the proposal.</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		<p><b>Justification</b></p> <p>Comparing this to NSSF which has similar deductions, the amount deducted on NSSF is a savings not a tax. I therefore propose a National Housing tax of 2% deducted on gross income (for employed people, deducted at source by employer similar to PAYE)</p>		
<p><b>Clause 4</b> Imposition of Levy</p>	<p>KPMG Kenya Bankers' Association KAM Vincent Muiruri</p>	<p><u>Proposal</u></p> <p>KMA proposes the contribution should be voluntary.</p> <p>KPMG proposes the introduction of a maximum limit of 10, 000 for contributions to the housing levy. KBA and KAM propose a cap at Kes 5,000 in</p>	<p>The Committee observed that the purpose of the Levy is to increase the Funds available to realize the provisions of Article 43(1)(b) of the Constitution and the inclusion of a tax incentive would jeopardize this noble cause.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
<p>the Bill; and Sections 31B and C of the Employment Act</p>		<p>Housing Fund and the penalty rates as well.</p> <p><u>Rationale</u></p> <p>Given the current economic crisis, the proposed rate for the Affordable Housing Levy is high. The proposed levy could potentially incentivize employee lay-offs.</p> <p>Furthermore, the proposed penalty rate for non-remittance of the levy is also disproportionately high considering the proposed deduction is a new one and employers (including Banks) need to allocate some of their profits towards payment of the levy, outside of their existing obligations.</p>	<p>together with clause 5 however, the Committee agreed that given the importance of the Fund, the penalties under the Bill should be high in order to deter any malfeasance.</p>	<p>but accepted the increase in penalties.</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		<p>judgement pronounced under Constitution Petition E181 of 2023.</p> <p><u>Rationale</u></p> <p>The judgement from the Constitution Petition E181 of 2023 held that the deduction of the levy on persons in formal employment to the exclusion of others was unfair, discriminatory, unfair, arbitrary and in violation of articles 27 and 201 (b)(i) of the Constitution. Hence, continued deduction of the levy without the same applying to the non-salaried persons perpetuates the same discriminatory practice.</p>		
Clause 4,5,6 and 7	K.Rose Wanjiru	<u>Proposal</u>	The provision of who qualifies for allocation of the affordable housing units was contained in	

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		<p>shows an imposition of a levy is unnecessary as it only seeks to further burden Kenyans with taxes for an ambition that may never be realized or benefitted from by the very Kenyan.</p>		
<p><b>Clause 5</b> Obligation of an employer.</p>	<p>State Department of Housing and Urban Development</p>	<p><u>Proposal</u> Substitute “business or company” with “person”</p> <p><u>Rationale</u> “person” is consistent with section 4 (2) (b) and person covers both incorporated and unincorporated entities which should all be treated consistently e.g. NGO’s which are not business or companies</p>	<p>The Committee opined that the proposed definition would promote fairness.</p>	<p>The Committee accepted.</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		operating expenses, yet they are not beneficiaries of the fund.		

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
<p><b>Clause 6</b> Exemption from imposition of levy.</p>	<p>Kenya Association of Manufacturers</p>	<p><u>Proposal</u> We propose that the circumstances under which the Cabinet secretary may exempt an employer from paying the Levy are made clear.</p>	<p>The Committee noted that Clause 47 (2) (a) of the Bill requires that the criteria shall be prescribed under regulations.  The Committee therefore proposed that the Regulations be tabled before Parliament before they take effect. The Committee further directed that the CS be provided with timelines within which to table the regulations and the time within which parliament is to conclude and approve the consideration of this urgent regulations.</p>	<p>The Committee accepted the proposal</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
<p><b>Clause 7</b> Debt Recovery</p>	<p>Kenya Bankers Association</p>	<p><u>Proposal</u></p> <p>a) All contributors should declare whether there have been any changes to their status on iTax i.e., unemployment to prevent accrual of fines and penalties.</p> <p>b) The Bill should also have dispute resolution mechanisms for such matters.</p> <p><u>Rationale</u></p> <p>Self-declaration will enable the collector to keep updated records on the status of the taxpayers and not impose penalties for the period where the taxpayer did not earn any income.</p>	<p>The Committee observed that the Levy is charged on gross salary and gross income and therefore should a contributor's status change to the effect that the contributor loses income, the levy shall not be chargeable.</p>	<p>The Committee rejected the proposal.</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
<p><b>Clause 8</b> Establishment of the Fund.</p>	<p>Kenya Association of Manufacturers</p>	<p><u>Proposal</u> We propose that the fund be managed by the Board or a Housing Authority.</p>	<p>The Board of the Fund is the one managing the Fund see clause 8.</p>	<p>The proposal was rejected as the Board is a body corporate that is managing the Fund.</p>

<p><b>Clause 9(d)</b></p>	<p>KPMG The Architects Alliance ('TAA')</p>	<p><b><u>Proposal</u></b> Amend section 9 (d) to accurately refer to the appropriate section on voluntary contributions.</p> <p><b><u>Rationale</u></b> Clause 9 (d) states that voluntary contributions made under Section 38 shall be paid into the Housing Fund.  Clause 38 of the Bill does not refer to voluntary contributions. The relevant section would be Clause 42.</p>	<p>There is a cross referencing error.</p>	<p>The Committee accepted the proposal.</p>
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CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
<p><b>Clause 10</b> Purpose of the Fund.</p>	<p>KPMG</p>	<p><u>Proposal</u> Section 10 should set out the purpose of the fund and commit to its revolving nature. The clause should be redrafted to read— “The Fund is established with the explicit commitment to its revolving nature, ensuring sustainable utilisation and replenishment of resources for ongoing initiatives.”</p> <p><u>Rationale</u> Section 10 does not explicitly state the revolving nature of the fund and the intention to use the fund as a guarantee.</p>	<p>Clause 10 (2) requires that all proceeds of sale, rent and interest shall be paid into the Fund but the Bill does not make specific reference to its revolving nature.  Since clause 43 (1) requires the CEO to keep proper books of account of the income, expenditure and assets of the Fund there will be transparency in respect to how much money is paid out of the fund and for what purpose.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
Clause 10 (2) (c)	KPMG	<p><u>Proposal</u> Amendment of clause 10 (2) (c) to include the word "in all counties."</p> <p><u>Rationale</u> Clause 10(c) states that the Housing fund shall provide for the setup of affordable housing schemes, without mandating their presence in all counties, as previously worded in the Bill tabled before the National Assembly. The omission of the words "in all counties" could potentially introduce bias.</p> <p>Distributing housing development more evenly across all counties will ensure a</p>	<p>payment facilities that will allow them to own housing units.</p> <p>The Committee observed that the programmes would be implemented in counties and it is therefore necessary to create a mechanism within counties to support the Board.</p>	<p>The Committee adopted the proposal and resolved to establish the County Affordable Housing Committees and provide them with a conditional grant of not less than 0.5% allocation from the Fund to carry out their mandate.</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		<p>b) It should encompass the mechanisms for the allocation and subsequent revolving of funds to ensure a continuous flow of resources.</p> <p>c) Additionally, it should stipulate that utilizing the fund as a guarantee necessitates significant interventions, such as seeking a credit rating or undergoing a ratings process.</p> <p>d) To use the fund as a guarantee will also require significant interventions e.g., seeking a credit rating/going through a ratings process. By putting this in the Act, it helps the board and management and gives confidence to the rating agency that this was contemplated.</p>	<p>it is proposed that the Cabinet Secretary develop regulations for the better carrying out of Part IV- Implementation of the Affordable Housing.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
			to facilitate them to carry out this additional task.	

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
<p><b>Clause 13</b> Annual Investment Programme</p>	<p>Vincent Muiruri</p>	<p><u>Proposal</u> (a) 70% of affordable houses are available to consistent contributors. -This will attract the business community to contribute.</p>	<p>The Committee observed that all Kenyans with income are either compulsory contributors or voluntary contributors. Therefore they are all consistent contributors and they should be allocated an affordable housing unit when they meet the eligibility criteria. The committee however noted that the prospect of owning homes was eliciting a lot of interest and therefore it was important to safeguard the ongoing projects.</p>	<p>The Committee rejected the proposed amendment but directed that an amendment be developed to the transitional clause to ensure the saving of ongoing programmes.</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
Clause 14 (2)	Kenya Bankers Association	<p><b><u>Proposal</u></b> The ex-officio members should be clearly identified and defined to ensure that there is no abuse of power and misappropriation of allowances.</p> <p><b><u>Rationale</u></b> Various provisions mention that there will be ex-officio members of the Board. It is</p>	requirements of the Act and the Regulations thereunder.	The Committee adopted the proposal to clarify by expressly indicating that the <i>ex-officio</i> member is the CEO.

<p><b>Clause 14 (3)</b> Composition of the Board.</p>	<p>Kenya Bankers' Association</p>	<p><b><u>Proposal</u></b> There should be representation from each of the agencies receiving funds such as the National Housing Corporation, projects under the Kenya Slum Upgrading and Low-Cost Housing and the State Department of Housing and Urban Development to ensure free flow and access to information.</p> <p><b><u>Rationale</u></b> Representation of the various agencies will ensure free flow and access to information amongst the agencies. The Board will also leverage on similar projects to achieve economies of scale.</p>	<p>The Committee noted that the stakeholder made reference to clause 12 however the Board is now established under clause 14. The Committee observed that the NHC, the State Department of Housing and Urban Development are all under the Principal Secretary in charge of housing who is part of the proposed membership of the Board.</p>	<p>The Committee rejected the proposed amendment.</p>
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<p><b>Clause 15 (2)</b> Functions of the Board.</p>	<p>Kenya Associations of Manufacturers</p>	<p><b><u>Proposal</u></b> We propose –</p> <p>(a) to insert a new paragraph (j) that allows the Board to enter into Public Private Partnerships.</p> <p>(b) to insert a new paragraph (k) that gives powers to the Board to make dwellings available for the purpose of sale to eligible applicants under affordable dwelling purchase arrangements and may, in accordance with the Housing Acts and regulations made under any of those Acts, acquire, build or cause to be built, or otherwise provide or facilitate the provision of, dwellings for that purpose.</p> <p><b><u>Rationale</u></b></p>	<p>(a) The Committee observed that the Board is empowered under clause 35 of the Bill to enter into an agreement with a private institution to develop and construct affordable housing units. In addition, Part IV of the Bill provides that the Board of the Fund is authorised to appoint a national government agency to develop affordable housing units, enter into agreements with public institutions to develop institutional housing or private institutions to construct affordable housing units. Therefore the proposal in</p>	<p>The Committee rejected the proposed amendment.</p>
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CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
<p><b>Clause 15 (3)</b> Composition of the Board</p>	<p>Kenya Associations of Manufacturers</p>	<p>We propose to amend as follows:</p> <p>(e) three persons, not being public officers, appointed by the Cabinet Secretary of whom</p> <p>(i) one shall be a nominee of the Kenya Association of Manufacturers;</p> <p>(ii) one shall be a nominee of The Architects Alliance; and</p> <p>(iii) one shall be a nominee of the Law Society of Kenya.</p>	<p>The Committee noted that the Bill does not provide for the organisations from which the nominees should be chosen from. However, it does prescribe that the persons have qualifications in built environment, finance or law. Furthermore, the proposed amendments, if enacted, run the risk of breaching the recommendations of Mwongozo Corporate Governance Code.</p>	<p>The Committee rejected the proposal</p>
<p><b>Clause 15</b> Functions of the Board</p>	<p>Cliffe Dekker Hofmeyr</p>	<p><u>Proposal</u> Insert the following new section (15)(2)(1)(k)-</p>	<p>The Committee noted that KRA already has a framework to determine the income of unemployed persons.</p>	<p>The Committee rejected the proposal.</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		and maintenance of affordable housing and the associated physical infrastructure	include aspects of design and maintenance of affordable housing.	proposed that it is best placed under clause 10.
<b>Clause 16 (1)</b> Qualifications for appointment	Kenya Association of Manufacturers	<p><b><u>Proposal</u></b></p> <p>We propose that the Chairperson:</p> <p>(i) has qualifications in the built environment.</p> <p>(ii) be appointed from amongst the board members who have been nominated by the professional bodies; and</p> <p>(iii) be independent.</p> <p><b><u>Rationale</u></b></p>	<p>The Committee observes that the Chairperson is head of the institution and is responsible for policy formulation. Therefore, it is proposed that the qualifications of the chairperson be measured in respect to years of experience rather than by particular professional fields.</p> <p>It is therefore proposed that the Chairperson should have a degree from a recognised university, 15 years experience</p>	<p>The Committee rejected the proposal and prescribed the years of experience required of the Chairperson.</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		<p>requiring a minimum level of experience in a certain field ensures that individuals appointed to positions possess the relevant skills, knowledge and expertise to perform their duties effectively.</p> <p>Secondly, the minimum years of experience for the chief executive officer and corporation secretary have been included in clauses 23(2)(b) and 28(2)(c) respectively</p>		
<p><b>Clause 17 (2)</b> Tenure of office</p>	<p>Kenya Associations of Manufacturers</p>	<p><u>Proposal</u></p> <p>We propose to delete the word “dishonesty” appearing in paragraph</p> <p><u>Rationale</u></p> <p>The word ‘dishonesty’ is open to multiple interpretations.</p>	<p>The Committee noted that the Leadership and Integrity Act and the Public Officers Act requires public officers to act with integrity and honesty at all times.</p>	<p>The Committee rejected the proposal.</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		<p>act in the best interests of the Board rather than their personal interests. This accountability fosters a culture of responsibility and encourages ethical behaviour throughout the organisation</p>		
<p><b>Clause 23(2)</b> Chief executive Officer of the Board</p>	<p>Oraro &amp; Company Advocates</p>	<p><u><b>Proposal</b></u> In addition to the qualifications provided, we propose that a person meets the requirements in chapter six of the Constitution as a requirement for appointment as a chief executive officer of the Board.</p> <p><u><b>Rationale</b></u> Leadership and integrity principles ensure that the person possesses a strong commitment to ethical conduct.</p>	<p>The Committee agreed with the stakeholder's proposal.</p>	<p>The Committee adopted the proposal.</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		<p>violates provisions under the Data Protection Act.</p>	<p>empowered to access any programme and project related data that the administrator considers necessary for the performance of their functions under the Act.</p> <p>In the Bill transmitted to the Senate, this provision is now contained in clause 27.</p> <p>The Committee further observed that the data in reference is data related to the programme and projects under the Bill and therefore should not violate the Data Protection Act given that the Board is managing the approved projects.</p>	

<p><b>Clause 30</b> Delegation of powers</p>	<p>K,Rose Wanjiku Advocate of the High Court</p>	<p><b><u>Proposal</u></b> Proposal to amend clause 30 to read: “a person qualifies to be allocated an affordable housing unit if that person is at least eighteen years of age and has submitted an application to the relevant agency in the manner specified.</p> <p><b><u>Rationale</u></b> The provision discriminates against foreigners who are in the country either by reason of work or forced migration and yet are required to comply with the provisions of the Act. The provision also contravenes Article 10(2) and 27 of the Constitution on non-discrimination.</p>	<p>The Committee noted that the original clause 30 of the Bill tabled in the National Assembly provided that a person is eligible for allocation of a housing unit if they are a Kenyan who is at least 18 years and holds an identification card.</p> <p>The Committee further noted that the Bill transmitted to the Senate lacks the eligibility criteria. The Committee therefore proposed that clause 38 be amended to provide that a natural person may on application be allocated one affordable housing unit for their lifetime and that a detailed eligibility criteria would be prescribed in regulations.</p>	<p>The Committee rejected the proposal.</p>
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CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
<p><b>Clause 32</b> Allocation of land</p>	<p>K.Rose Wanjiru Advocate of the High court</p>	<p><u>Proposal</u> (a) Amend section 32 of the Bill and include aspects of sanitation for the Bill to give Article 43(1) (b) full effect. (b) delete clause 32 of the Bill and replace it with a new section 32 which would read: An agency may take-off affordable housing units under an affordable housing scheme if the affordable housing scheme – a. is supported by a report on housing needs b. is supported by a full environmental impact assessment study; c. has been approved by the agency;</p>	<p>(a) The Committee observed that the Bill related to provision of affordable housing and noted that amendments were being made to include aspects of design and maintenance. Therefore the aspects of sanitation would be subsumed within the requirements related to design.  (b) The Committee observed that clause 40 of the Bill already provides for the conditions under which the Board may offtake</p>	<p>The Committee resolved to amend the purpose of the Fund to include design and maintenance aspects.  The Committee further resolved that an amendment be made to provide guidelines to offtake affordable housing units.</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		<p><u>Rationale</u></p> <p>a)Firstly, the Fund is not an entity established in the Bill to administer the Fund.</p> <p>b)Secondly, the chief executive officer is the entity established in the Bill to be the administrator of the fund as indicated in clauses 2 and 24 of the Bill.</p>	<p>optimal utilization of the fund in the implementation of affordable housing programs.</p> <p>Further the CEO under clause 24 (1)(e) implements the policies approved by the Board for the attainment of the objects of the fund. Therefore the CEO despite the Ceo being the administrator of the fund ,the CEO does not act independently.</p> <p>Consequently, references in 34,35 and 36 may be construed to refer to the Board and not the CEO.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
<p><b>Clause 38</b> Eligibility Criteria</p>	<p>State Department of Housing and Urban Development</p>	<p><u><b>Proposal</b></u> The eligibility criteria be moved to Regulations</p>	<p>The Committee accepted that the eligibility criteria should be contained in Regulations. It however noted that the Affordable Housing programme should only be available to natural persons and not body corporates and that in order to promote equity, an eligible persons will qualify for only one unit in their lifetimes.</p>	<p>The Committee accepted to move part of the eligibility criteria to Regulations.</p>
<p><b>Clause 38 &amp; 39</b> Eligibility Criteria</p>	<p><b>KPMG</b> Kenya Manufacturers Authority Cliffe Dekker Hofmeyr</p>	<p><u><b>Proposal</b></u> Clause 38 and 39 make reference to clauses that are no longer relate to the eligibility criteria.</p>	<p>The Committee noted that the Bill transmitted to the Senate contained cross-referencing errors and that the eligibility criteria was missing as it was deleted by the National Assembly.</p>	<p>The Committee accepted the proposal.</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		<p>If not done there is a likelihood of increasing the risk of individuals with higher incomes, who could potentially acquire multiple affordable homes exacerbating the social inequities that already existing in the country. These restrictions could help ensure that affordable housing is distributed more equitably among those who genuinely require an affordable unit.</p>	<p>under the Affordable Housing programme for their lifetimes.</p>	
<p><b>Clause 38</b></p>	<p>Cliffe Dekker Hofmeyr</p>	<p><u>Proposal</u> Amend the Bill so that the section reads- "A natural person shall be eligible to be allocated only one affordable housing unit if that person is a Kenyan citizen who is at least eighteen years of age and holds a</p>	<p>The Committee observed that the Fund seeks to ensure the achievement of Article 43(1)(b) by ensuring that Kenyans have access to accessible and adequate housing; therefore in order to promote equity, the</p>	<p>The Committee accepted the proposed amendment</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
			contributions could be used as deposit.	
<b>Clause 40(b)</b> Off-taking of affordable housing units	Oraro & Company Advocates	<p><u>Proposal</u></p> <p>We propose that the policy and statutory requirements are listed in this clause.</p> <p><u>Rationale</u></p> <p>This proposal enhances clarity by listing the policy and statutory requirements that have been omitted from this clause.</p>	<p>The Committee observed that the procedural guidelines in relation to the exercise of the power of the Board to offtake affordable housing units should ordinarily be contained in regulations.</p> <p>The Committee therefore directed that an amendment be made to clause 47 in this respect.</p>	The Committee accepted this proposal.
<b>Clause 41</b> Loan interest rate	Vincent Muiruri	<u>Proposal</u>	The Committee observed that the interest rate or administration fee for a loan issued under clause	The Committee rejected the proposal and instead recommended for the interest rate and

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
<p><b>Clause 47</b> Regulations</p>	<p>Cliffe Dekker Hofmeyr</p>	<p><u>Proposal</u> Delete section 47 (2) (b) .</p> <p><u>Rationale</u> The proposed amendment seeks to give life to the proposal above which proposes deletion of section 39(2) (a) that requires a deposit, prescribed by the Cabinet Secretary, to be placed before a house can be purchased."</p>	<p>The Committee noted that the contributions are towards creation of the Fund to facilitate the attainment of the realisation of Article 43(1)(b) of the Constitution and therefore, the monies cannot be used as deposit. The Committee therefore retained the requirement for regulations to be developed in respect to the requisite deposit.</p>	<p>The Committee rejected the proposal</p>
<p><b>Clause 49(1)</b> Revocation of affordable housing fund regulations</p>	<p>Oraro &amp; Company Advocates</p>	<p><u>Proposal</u> We propose the addition of the word "before" appearing after the word "immediately".</p> <p><u>Rationale</u></p>	<p>The Committee noted that the amendment will clarify the provision.</p>	<p>The Committee accepted the proposal</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		The purpose of this introduction is to bring clarity to the meaning of the words being introduced.		
New Clause	Vincent Muiruri	The levy to be introduced as part VAT which will cover most Kenyans.	The Committee observed that the primary purpose of the Bill is to introduce a levy.	The Committee rejected the proposal.
New Clause	KPMG	<p><b><u>Proposal</u></b></p> <p>Inclusion of incentives.</p> <p>The Bill should include tax incentives to encourage corporations to provide a gift or donation under Section 9 of the Bill.</p> <p><b><u>Rationale</u></b></p> <p>By offering reduced tax liabilities or credits, governments can stimulate greater</p>	<p>The Committee observed that clause 5(2)(b) already exempts any person who complies with the requirements of clause 5 from paying the levy in clause 4(2)(b).</p> <p>In addition, the Committee observed that the purpose of the Levy is to increase the Funds available to realize the</p>	The Committee rejected the proposal.

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		<p>d. Subsidise labour – government to pay 50% of casual labour costs at the sites</p> <p>e. Subsidise construction materials especially cement, iron sheets, nails and blocks.</p> <p>ii. Subsidise mortgage repayments to Kenyans with a mortgage with fixed monthly relief of Ksh. 5,000 on all mortgages</p> <p>iii. Control interest charged on new mortgages by commercial banks</p> <p><u>Rationale</u></p> <p>This proposal is aimed at encouraging all Kenyans who can afford to start own housing project. Additionally, the restriction on what units will be supported by the the government will ensure dignity,</p>		<p>build rural affordable housing units.</p>

CLAUSE	STAKEHOLDER	PROPOSAL AND RATIONALE	COMMITTEE OBSERVATION	COMMITTEE DETERMINATION
		<p>with paying mortgages and property taxes, in addition to the housing levy.</p> <p><b><u>Rationale</u></b></p> <p>Many homeowners face significant financial burdens, including mortgage payments, property taxes, and now the housing levy.</p> <p>Introducing property tax relief helps alleviate this burden, especially for those struggling to make ends meet.</p>		

**STAKEHOLDERS**

**K. Rosemary Wanjiku-Advocate of the High Court**

**Vincent Njoroge**

**Mr. John Wesley Makokha**

**Haki Yetu Organization**

**Peter Kimei**

**Kamukunji Jua Kali  
Mwingi Bodaboda Operators Association**

# APPENDIX 3

**National News**

Row The parties yesterday appeared to pull in different directions on a day MPs unanimously adopted the Nadco report

# Differences over opposition leader's office splits Azimio

Kalonzo's allies say he is best suited for the seat as he will be the Azimio flagbearer in 2027

BY MOSES NYAMORI AND JUSTUS OCHIENG'

Opposition affiliate parties are allegedly split on who should take over the office of the Official Leader of Opposition should Mr Raila Odinga succeed in his bid for the chairmanship of the African Union Commission (AUC).

The parties yesterday appeared to pull in different directions on a day the National Assembly unanimously adopted the National Dialogue Committee (Nadco) report. Allies of Wiper leader Kalonzo Musyoka told Nation he should automatically take up the slot in the event it is created before the 2027 General Election.

But Mr Odinga's Orange Democratic Movement (ODM), through Deputy Party Leader Wycliffe Oparanya, said the slot should be taken by the outfit with the largest number of MPs.

The bickering seemed to rule



From left: DAP-K leader Eugene Wamalwa, Wiper's Kalonzo Musyoka and ex-Murang'a County Governor Wani Wani address journalists at the Jaramogi Odinga Foundation in Nairobi yesterday. BONFACE BOGITA INATION

out the chances of Narc Kenya leader Martha Karua — who was Mr Odinga's running mate in the 2022 race — taking up the slot since her party has no elected leaders. Some of the Azimio politicians said Ms Karua can take up one of the deputy slots.

According to the Nadco report,

the seat will be taken up by the leader of the party/coalition of parties that garnered the second-greatest number of votes in the immediately preceding presidential elections. The holder of the office will have two deputies. Mr Oparanya suggested that he was ready to take up the slot since

ODM is the largest party in the Azimio la Umoja One Kenya Coalition Party. National Assembly Minority Leader Opiyo Wandayi is also eyeing the seat owing to his current position.

"The decision should be based on numbers in Parliament. You cannot lead a team if your party

The decision should be based on numbers in Parliament. You cannot lead a team if your party has no members in the two houses

Mr Wycliffe Oparanya



has no members in the two houses," said Mr Oparanya.

Mr Musyoka's allies, led by Kitui Senator Proch Wambua and Kitui Central MP Makall Mulu, said Mr Musyoka should be the automatic pick for the slot, citing an alleged agreement that he would run on the coalition's ticket in the 2027 presidential election.

"It is not a rock science to know who should occupy it. Kalonzo will be best suited for the seat. It makes a lot of sense because he will be our flag bearer in the 2027 election," said Senator Wambua.

Similar remarks were made by Mr Mulu, who maintained that Mr Musyoka remains the automatic choice to take up the position. He said Ms Karua can serve as one of the deputies.

Yesterday, ODM, through its Secretary-General Edwin Sifuna, said Mr Odinga had not declared that

he plans to step down. "May it go to the person position... has local political... means the party... We say... for the nation's... chaired by the... said in a statement.

Even though Mr Odinga... ed that he will... for whoever... the holder of the... the African Union... representative for... opened post... a full in... of expectations.

"Political leadership is... shared. Even if... there are... around me... provide leadership... and Azimio," Mr... ly review, a... Tim Mutha... With ODM... party leaders... former... san John, it is... between them... party leader's... ODM National... Mbadi has... Central Committee... vened, once... from Germany... the future of... nnyamw...

With ODM having... party leaders... former... san John, it is... between them... party leader's... ODM National... Mbadi has... Central Committee... vened, once... from Germany... the future of... nnyamw...

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REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | THIRD SESSION  
THE SENATE

**INVITATION FOR SUBMISSION OF MEMORANDA**

At the sitting of the Senate held on Thursday, 22<sup>nd</sup> February, 2024, the Affordable Housing Bill, 2023 (National Assembly Bills No. 75 of 2023) was introduced in the Senate by way of First Reading and thereafter stood committed to the Standing Committee on Roads, Transportation and Housing.

Pursuant to the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committee now invites interested members of the public to submit any representations that they may have on the Bill by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to [clerk\\_senate@parliament.go.ke](mailto:clerk_senate@parliament.go.ke) and copied to the email address [roadstranshousingcomm.senate@parliament.go.ke](mailto:roadstranshousingcomm.senate@parliament.go.ke), to be received on or before Thursday, 29<sup>th</sup> February, 2024 at 5.00 p.m.

The Bill may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

J.M. NYEGENYE, CBS,  
CLERK OF THE SENATE.

REPUBLIC OF KENYA



PARLIAMENTARY SERVICE COMMISSION  
PARLIAMENTARY JOINT SERVICES

**PUBLIC PARTICIPATION ON THE PARLIAMENTARY SERVICE COMMISSION BUDGET PREPARATION FOR THE FY 2024/25 AND MEDIUM TERM PERIOD (2024/25-2026/27)**

The Parliamentary Service Commission is finalizing preparation of the FY 2024/25 and medium term Budget Proposal. In compliance with the Constitutional requirement for public participation in all financial matter anchored under Article 201(a) as read together with section 37(5) (a) of the Public Finance Management Act (PFM) 2012, the Parliamentary Service Commission has prepared the Sector Report and 2024/25 - 2026/27 MTEI period budget proposals. The Legislative Sector Report for Medium Term Expenditure Framework (MTEF) period 2024/2025-2026/2027 can be downloaded from the parliamentary website: [www.parliament.go.ke](http://www.parliament.go.ke).

All Stakeholders are invited to submit written comments on the Parliamentary Service Commission's MTEF budget proposals to [dg@parliament.go.ke](mailto:dg@parliament.go.ke) or [parliamentdfa@gmail.com](mailto:parliamentdfa@gmail.com) by 5.00pm on Friday, 8<sup>th</sup> March 2024.

Director General, Parliamentary Joint Services,  
Parliamentary Service Commission,  
P.O. Box 41842 00100  
NAIROBI

# APPENDIX 4

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

The Clerk of the Senate  
Parliament Buildings  
**NAIROBI**

**RE: COMMITTEE STAGE AMENDMENTS TO THE AFFORDABLE HOUSING BILL,  
NATIONAL ASSEMBLY HOUSING BILL NO 75. OF 2023**

**NOTICE** is given that Sen. Karungo P. Thangwa, Chairperson, Senate Standing Committee on Roads, Transportation and Housing, intends to move the following amendments to the Affordable Housing Bill, National Assembly Bills No. 75 of 2023, at the Committee Stage—

**TITLE**

**THAT** the Bill be amended by deleting the Title and replacing therefore the following new title—  
Rural and Urban Affordable Housing Act.

**CLAUSE 1**

**THAT** the Bill be amended by deleting the words “Affordable Housing Act ,2024” appearing immediately after the words “cited as the” and replacing therefor the following ne words “Rural and Urban Affordable Housing Act, 2024”

**CLAUSE 5**

**THAT** clause 5 of the Bill be amended in subsection (2) by deleting the words “business or company which” and substituting therefor the words “person who”.

**CLAUSE 7**

**THAT** clause 7 of the Bill be deleted and substituted with the following new clause—

Default on  
payment of  
amount of Levy.

7. Where an amount of the Levy remains unpaid after the date when it becomes due and payable by a person liable to remit the amount, a penalty equal to three per centum of the unpaid amount shall be due and payable for each month or part thereof that the amount remains unpaid and shall be summarily recovered as a civil debt for the person liable to remit the amount.

**CLAUSE 9**

**THAT** clause 9 of the Bill be amended –

- (a) in paragraph (d) by deleting the words “section 38” and substituting therefor the words “section 42”; and
- (b) by inserting the following new paragraph immediately after paragraph (e)—
  - (ea) loans approved by the Cabinet Secretary for the time being in charge of the National Treasury;

- (b) by deleting the word “his” appearing in paragraph (c) and substituting therefor the word “their”;

**CLAUSE 15**

**THAT** clause 15 of the Bill be amended by inserting the following new paragraph immediately after paragraph (d)—

- (da) inspect and enforce compliance to this Act, guidelines and regulations set under the Act.

**CLAUSE 16**

**THAT** clause 16 of the Bill be amended—

- (a) in sub-clause (1) –
  - (i) by deleting paragraph (b) and substituting therefor the following new paragraph—
    - (b) has ten years’ experience in a senior management position in the public service or private sector; and
  - (ii) by inserting the following new paragraph—
    - (c) meets the requirements of Chapter Six of the Constitution.
- (b) in sub-clause (2) by deleting the words “other than as an *ex-officio* member” appearing immediately after the word “Board”.

**CLAUSE 17**

**THAT** clause 17 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “other than the *ex-officio* members” appearing immediately after the word “Board”;
- (b) in sub-clause (2)—
  - (i) by deleting the words “other than an *ex-officio* member” appearing immediately after the word “Board” in the introductory sentence;
  - (ii) by deleting the words “his or her” appearing in paragraph (d) and substituting therefor the word “their”; and
- (c) in sub-clause (3) by deleting the words “other than an *ex-officio* member” appearing immediately after the word “Board”.

**CLAUSE 18**

**THAT** clause 18 of the Bill be amended by deleting the words “other than an *ex-officio* member” appearing immediately after the word “member”.

Eligibility criteria. **38.** (1) A person is eligible for allocation of one affordable housing unit if the person meets the criteria prescribed in regulations.

(2) In this section, a person means a natural person.

#### **CLAUSE 39**

**THAT** clause 39 of the Bill be amended in subclause (1) by deleting the words “section 30” and substituting therefor the words “section 38”.

#### **CLAUSE 40**

**THAT** clause 40 of the Bill be amended by—

- (a) renumbering the current paragraph as subclause (1); and
- (b) by inserting the following new sub-clause—

(2) The Cabinet Secretary may in consultation with the Board issue regulations for the better carrying out of subsection (1).

#### **CLAUSE 41**

**THAT** clause 41 of the Bill be amended by deleting the words “where applicable”.

#### **CLAUSE 42**

**THAT** clause 42 of the Bill be amended by deleting sub-clause (4) and substituting therefor the following new sub-clauses—

(4) A person who has made a voluntary saving and has not been allocated an affordable housing unit—

- (a) may withdraw their savings by issuing ninety days’ written notice to the agency for refund with any accrued interest; or
- (b) may apply to the Board for approval of issuance of an affordable interest mortgage to develop a rural affordable housing unit;

(5) An application in sub-section (4) (b) will be accompanied by an agreement that the applicant agrees to have their saved deposits and the land upon which the unit is to be built to be used as collateral.

(6) Upon approval by the Board, the applicant shall cause a charge on the title in subsection (5) to be executed in favour of the Board.

**THAT** clause 48 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3) –

(4) Any ongoing project or programme on affordable housing implemented pursuant to a commitment or obligation under subsection (3) shall be deemed to be a project or programme commenced under this Act.

#### **CLAUSE 49**

**THAT** clause 49 of the Bill be amended in sub-clause (1) by inserting the word “before” after the word “immediately”.

#### **NEW CLAUSES**

**THAT** the Bill be amended by inserting the following new clauses immediately after clause 11—

##### **NEW CLAUSE 11A**

Investments by the Board.

**11A.** The Board may, with the approval of the Cabinet Secretary in charge of Treasury, invest any income that is not immediately required.

##### **NEW CLAUSE 11B**

Borrowing by the Board.

**11B.** The Board may, with the approval of the Cabinet Secretary in charge of Treasury, borrow funds for the advancement of the objectives of the Act.

**THAT** the Bill be amended by inserting the following new clauses immediately after clause 31—

##### **NEW CLAUSE 31A**

#### **PART III (A) —ROLE OF THE COUNTY GOVERNMENTS IN AFFORDABLE HOUSING**

Establishment of County Rural and Urban Affordable Housing Committees.

**31A.** (1) There is established in every county, a County Rural and Urban Affordable Housing Committee.

(2) The County Committee shall consist of the following—  
(a) a non-executive chairperson who shall be nominated by the county governor;

- (b) has not been convicted of a criminal offence which attracts imprisonment for a term not exceeding six months;
- (c) has not been adjudged bankrupt or entered into a composition or arrangement with the creditors of the person; and
- (d) is not disqualified under any other written law from appointment as such.

**NEW CLAUSE 31C**

Tenure of office.

**31C.** (1) The Chairperson and members of the County Committee, shall hold office for a term of three years and may be eligible for re-appointment for an additional final term of three years.

(2) Notwithstanding the provisions of subsection (1), a member of the County Committee may be removed from office if that person—

- (a) has been absent from three consecutive meetings of the Committee without justifiable cause or the written permission of the Chairperson;
- (b) is adjudged bankrupt or enters into a composition or arrangement with the creditors of the person;
- (c) is convicted of an offence involving anti-economic crimes or corruption;
- (d) becomes incapable of carrying out the functions of their office due to an infirmity of mind or body;
- (e) violates Chapter Six of the Constitution; or
- (f) fails to disclose any interest in a matter under consideration by the Committee as provided for under this Act.

**NEW CLAUSE 31D**

Remuneration of the County Committee members.

**31D.** The Chairperson and the members of the County Committee shall be paid such sitting allowances or other remuneration for expenses as recommended by the Salaries and Remuneration Commission.

**NEW CLAUSE 31E**

- (a) in paragraph 1 by deleting the words “at least half” appearing in sub-paragraph (4) and substituting therefor the word “majority”; and
- (b) in paragraph 2 by deleting the words “fifty plus one” and substituting therefor the words “majority”.

**THIRD SCHEDULE**

**THAT** the Third Schedule of the Bill be amended by inserting the following new paragraphs immediately in paragraph 5—

5A. National Construction Authority.

5B. State Department responsible for matters relating to Public Works.

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended—

- (a) by deleting sub-clause (2) and inserting the following new sub-clause —

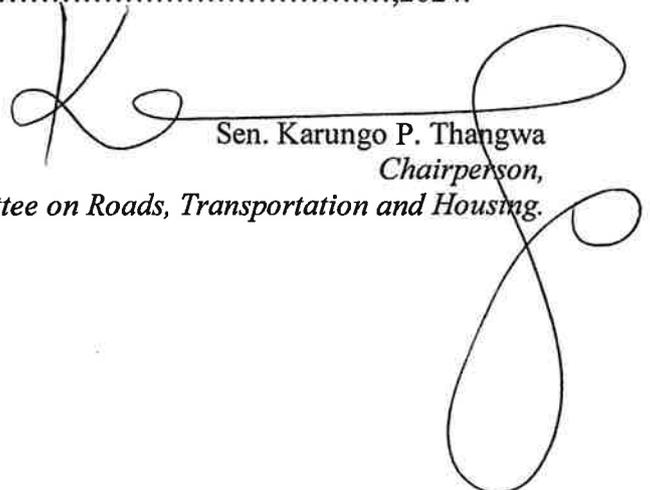
For purposes of this Act, “affordable housing unit” refers to —

- (a) a social housing unit means a house targeted to a person whose monthly income is below twenty thousand shillings;
- (b) an affordable housing unit means a house targeted at a person whose monthly income is between twenty thousand and one hundred and forty-nine thousand shillings;
- (c) affordable middle class housing unit means middle to high income housing targeted at persons whose monthly income is over one hundred and forty-nine thousand shillings; or
- (d) rural affordable housing unit means a house under section 42 targeted at a person living in any area which is not an urban area.

- (b) by inserting the following new definition—

“County Committee” means the County Affordable Housing Committee established under Part IV of this Act;

Dated.....<sup>7<sup>th</sup> March, 2024.</sup>

  
Sen. Karungo P. Thangwa  
Chairperson,  
Standing Committee on Roads, Transportation and Housing.

# APPENDIX 5

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**REPUBLIC OF KENYA**

**PARLIAMENT**

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**NATIONAL ASSEMBLY BILLS**  
*(Bill No. 75 of 2023)*

**THE AFFORDABLE HOUSING BILL, 2023**

(A Bill published in the Kenya Gazette Supplement No. 236 of 4<sup>th</sup> December, 2023  
and passed by the National Assembly, with amendments, on 21<sup>st</sup> February, 2024)

22—Remuneration of Board members.

23—Chief Executive Officer of the Board.

24—Administrator of the Fund.

25—Fund not to be overdrawn.

26—Administrative costs.

27—Power of administrator of the Fund to access information.

28—Corporation Secretary.

29—Staff of the Board.

30—Delegation of powers.

31—The common seal.

**PART IV—IMPLEMENTATION OF THE AFFORDABLE HOUSING**

32—Allocation of land.

33—Agreement with national government agency.

34—Agreement for institutional housing.

35—Agreement with private institutions

36—Agreement for financing.

37—Community support

**PART V—ELIGIBILITY CRITERIA AND APPLICATION PROCEDURE FOR AFFORDABLE HOUSING UNIT**

38—Eligibility criteria.

39—Application for allocation of affordable housing unit.

40—Off-taking of affordable housing units.

41—Loan interest rate.

42—Loan repayment.

43—Voluntary savings.

**PART VI—FINANCIAL PROVISIONS**

44—Accounts and audit.

**THE AFFORDABLE HOUSING BILL, 2023**

**A Bill for**

**AN ACT of Parliament to give effect to Article 43(1)(b) of the Constitution; to provide a framework for development and access to affordable housing and institutional housing; and for connected purposes**

**ENACTED** by Parliament of Kenya, as follows—

**PART I—PRELIMINARY**

1. This Act may be cited as the Affordable Housing Act, 2024 and shall come into operation as follows— Short title.

- (a) on the date of assent, section 4 and 5;
- (b) all other sections, on such date as may be prescribed by the Cabinet Secretary by notice in the *Gazette*.

2. (1) In this Act, unless the context otherwise requires— Interpretation.

“agency” means an institution allocated monies for affordable housing under section 11;

“administrator of the Fund” means the person designated as the administrator of the Fund under section 24;

“affordable housing” means housing that is adequate and costs not more than thirty percent of the income of a person per month to rent or acquire;

“affordable housing scheme” means the construction of affordable housing units including such other social amenity, infrastructure or services and the acquisition, laying out, subdivision and the development of land comprised within the area of the scheme necessary for social welfare and trading;

“Board” means the Affordable Housing Board established under section 14;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to affordable housing;

- (c) provide a legal framework for the implementation of the affordable housing programmes and projects and institutional housing.
- (2) The implementation of this Act shall be guided by—
  - (a) the national values and principles of governance under Article 10(2)(b) of the Constitution;
  - (b) the principles of public finance under Article 201 of the Constitution; and
  - (c) the values and principles of public service under Article 232 of the Constitution.

**PART II—IMPOSITION OF AFFORDABLE HOUSING LEVY**

4. (1) There is imposed a levy known as the Affordable Housing Levy. Imposition of Levy.

(2) The Levy shall be at the rate of one point five percent of—

- (a) the gross salary of an employee; or
- (b) the gross income of a person received or accrued which is not subject to the Levy under paragraph (a).

(3) The Levy shall be payable to the collector, for remittance into the Fund, not later than the ninth working day after the end of the month in which the gross salary was due or gross income was received or accrued.

5. (1) An employer shall—

- (a) deduct and remit the amount referred to in section 4(2)(a) from the gross salary of an employee; and
- (b) remit an amount equivalent to the amount deducted under section 4(2)(a), to the collector.

Obligation of an employer.

(2) Without prejudice to the generality of section 6, any business or company which complies with the provisions of section 5 shall not be liable to pay the levy under section 4(2) (b).

6. The Cabinet Secretary for the time being responsible for the National Treasury may, on the

Exemption from imposition of the Levy.

- (a) facilitate the provision of funds for affordable housing and affordable housing schemes in the promotion of home ownership;
- (b) provide low interest loans or low monthly payment home loans, where applicable for the acquisition of affordable housing units within the approved affordable housing schemes;
- (c) facilitate the development of affordable housing schemes;
- (d) facilitate development of institutional housing units;
- (e) develop long term finance solutions for the development and off-take of affordable housing;
- (f) provide funds for maintenance of any land or building, estate or interest therein, for any of the purposes of the Fund; and
- (g) fund any other activities incidental to the furtherance of the objects of the Fund.

11. (1) The Board may allocate out of the Fund, monies for the— Allocations out of the Fund.

- (a) development and off-take of affordable housing programmes and projects;
- (b) development of institutional housing; and
- (c) social and physical infrastructure.

(2) The monies may be allocated subject to the annual investment programme under section 13 and the provisions of Part IV to the agencies set out in the Third Schedule.

(3) The monies may be allocated to county governments in accordance with the Public Finance Management Act, 2012 and on such conditions as may be prescribed by the Cabinet Secretary for the time being responsible for the National Treasury.

(4) Despite the provisions of subsection (2), the Board shall allocate out of the Fund—

(3) The Cabinet Secretary shall submit the annual investment programme to the National Assembly for approval before disbursing funds out of the Fund.

14. (1) There is established a board to be known as the Affordable Housing Board.

Establishment of Board.

(2) The Board is a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
  - (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property; and
  - (c) doing or performing all other things or acts for the furtherance of the provisions of this Act which may be lawfully done or performed by a body corporate.
- (3) The Board shall consist of the following—
- (a) a non-executive Chairperson appointed by the President;
  - (b) the Principal Secretary to the National Treasury or his representative designated in writing;
  - (c) the Principal Secretary of the State Department for the time being responsible for matters relating to affordable housing or his representative designated in writing;
  - (d) three other persons who shall be appointed by the Cabinet Secretary, of whom—
    - (i) one shall be a nominee of the Council of County Governors;
    - (ii) one shall be a nominee of the Central Organization of Trade Union; and
    - (iii) one shall be a nominee of the Federation of Kenya Employers;
  - (e) three persons, not being public officers, appointed, through a competitive process, by the Cabinet Secretary and who shall possess

- (c) based on a five-year affordable housing investment programme and annual affordable housing investment programme, determine the allocation of financial resources required for the development of the affordable housing projects, institutional housing and associated social and physical infrastructure;
- (d) manage the Fund and allocate monies in accordance with section 11;
- (e) monitor and evaluate, by means of technical, financial and performance audits, the delivery of goods, works and services funded by the Fund;
- (f) in implementing paragraph (e), pay due regard to public procurement and disposal regulations and additional guidelines issued or approved by the Cabinet Secretary for the time being responsible for the National Treasury;
- (g) identify, quantify and recommend to the Cabinet Secretary such other potential sources of revenue as may be available to the Fund for the development, of affordable housing programmes and projects and associated social and physical infrastructure for consideration by the Cabinet Secretary to the National Treasury;
- (h) approve the opening and closing of bank accounts of the Fund by the administrator of the Fund;
- (i) approve estimates of revenue and expenditure of the Fund for each financial year; and
- (j) perform such other duties as may be assigned by the Cabinet Secretary in writing.

16. (1) A person qualifies to be appointed as the Chairperson of the Board if that person—

Qualifications for appointment.

- (a) holds a degree from a university recognized in Kenya;
- (b) has experience in matters relating to housing, built environment, banking, finance or law.

member resigns from office by a notice in writing addressed to the appointing authority.

18. Whenever the office of the Chairperson or a member, other than an *ex-officio* member, becomes vacant before the expiry of the term of office, the appointing authority shall, on the recommendation of the nominating body, where applicable, appoint a person who holds a similar qualification to fill the vacant position for the remainder of the term.

Filling of vacancy.

19. (1) The conduct of affairs and business of the Board shall be in accordance with the Schedule.

Conduct of affairs and business of the Board.

(2) Subject to subsection (1), the Board may regulate its own procedures.

20. (1) The Board may establish such committees consisting of such members of the Board to deal with such matters as the Board may specify.

Committees of the Board.

(2) The Board may co-opt persons who are not members of the Board to committees established under subsection (1) for a particular reason and such persons shall serve in such committees for such period as the Board may determine.

21. (1) If a member of the Board is present at a meeting of the Board or any committee of the Board at which any matter is the subject of consideration and in which matter the member or the dependants of the member are directly or indirectly interested in a private capacity, the member shall, as soon as practicable, after the commencement of the meeting, disclose such interest and shall not, unless the Board otherwise directs, take part in any consideration or discussion, or vote on any question relating on such matter.

Disclosure of interest.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

(3) Failure to disclose such interest shall lead to the disqualification of the member from holding office as a member.

22. The Chairperson and the members of the Board shall be paid such sitting allowances or other remuneration for expenses as recommended by the Salaries and Remuneration Commission.

Remuneration of Board members.

- (j) establish proper systems of internal control and management in accordance with provisions of the relevant laws;
- (k) subject to approval of the Board, authorise withdrawals out of the Fund;
- (l) ensure that money held in the Fund, including any earnings or accruals is spent only for the purpose for which the Fund is established
- (m) prepare, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund and showing the expenditure incurred from the Fund in accordance with the Public Audit Act, 2015; and
- (n) undertake any other duty the Board may assign in furtherance of the objects and purpose of the Fund.

No. 34 of 2015.

25. The administrator of the Fund shall ensure that no bank accounts of the Fund are overdrawn.

Fund not to be overdrawn.

26. The administrative costs of the Fund shall not exceed two percent of the latest audited financial statement of the Fund.

Administrative costs.

27. The administrator of the Fund may access any programme and project related data that the Administrator considers necessary for the performance of their functions under this Act.

Power of the administrator of the Fund to access information.

28. (1) There shall be a Corporation Secretary to the Board who shall be competitively recruited and appointed by the Board.

Corporation Secretary.

(2) A person shall be qualified to be appointed as the Corporation Secretary if that person—

- (a) holds a degree from a university recognised in Kenya;
- (b) is a Certified Public Secretary and a member of the Institute of Certified Public Secretaries of Kenya in good standing;
- (c) has at least ten years' experience in offering the services of a certified public secretary; and

30. The Board may, by resolution generally or in any particular case, delegate to the administrator of the Fund, an officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of its functions under this Act or under any other written law.

Delegation of powers.

31. (1) The common seal of the Board shall be kept in such custody as the Board may direct and shall not be used except by the order of the Board.

The common seal.

(2) The common seal of the Board shall, when affixed to a document and is duly authenticated, be judicially and officially noticed, and unless and until the contrary is proved, any necessary order or authorisation by the Board under this section shall be presumed to have been duly given.

#### PART IV—IMPLEMENTATION OF THE AFFORDABLE HOUSING

32. The provisions of the Land Act, 2012 shall apply with regard to allocation of national or county government land.

Allocation of land.

33. (1) The Fund may appoint a national government agency to develop affordable housing units and the associated social and physical infrastructure.

Agreement with national government agency.

(2) Subject to the Public Finance Management Act, 2012, the Fund may disburse such monies to the national government agency for the performance of the functions under sub-section (1).

34. The Fund may enter into an agreement with a public institution for—

Agreement for institutional housing.

(a) the development of institutional housing units; and

(b) the repayment of the monies paid out of the Fund for the development of the institutional housing units.

35. The Fund may enter into an agreement with a private institution to develop and construct affordable housing units and the associated social and physical infrastructure.

Agreement with private institutions.

- (d) a copy of Kenya Revenue Authority personal identification number certificate and tax compliance certificate; and
- (e) such other information as may be determined by the Board.

(3) In determining the allocation of an affordable housing unit under this section, the Board shall give preference to marginalised persons, vulnerable groups, youth, women and persons with disabilities.

40. The Board may off-take affordable housing units under an affordable housing scheme if the affordable housing scheme—

Off-taking of affordable housing units.

- (a) has been approved by the Board;
- (b) meets policy and statutory requirements; and
- (c) meets any other criteria or conditions set by the Board.

41. The interest rate or administration fee for a loan issued under this Act, where applicable, shall be payable on a reducing balance at such rate as may be prescribed by the Cabinet Secretary.

Loan interest rate.

42. (1) An eligible person may make voluntary savings with the Fund for purposes of raising a deposit towards the allocation of an affordable housing unit.

Voluntary savings.

(2) An administrator of the Fund shall open separate bank account where voluntary savings shall be kept and any interest arising from investment of voluntary savings shall be credited to this account.

(3) The administrator of the Fund shall issue an account number to each person making a voluntary saving.

(4) A person who has made a voluntary saving and has not been allocated an affordable housing unit and desires to withdraw his or her savings shall give a ninety-days' notice to the agency for refund with accrued interest, if any.

#### **PART VI—FINANCIAL PROVISIONS**

43. (1) The administrator of the Fund shall cause to be kept proper books and records of account of the income, expenditure and assets of the Fund.

Accounts and audit.

or misrepresents information required under this Act;

(b) having possession of, or control over, or access to any documents, information, returns or forms relating to applications or granting of loans, communicates anything contained therein—

(i) to any person other than a person to whom he is authorized by the Board to communicate it; or

(ii) otherwise than for the purposes of this Act.

(2) A person who contravenes the provisions of subsection (1) shall be liable, on conviction to a fine not exceeding ten million shillings or imprisonment of a term not exceeding five years, or to both.

46. No matter or thing done by any person under this Act shall, if the matter or thing is done in good faith and in accordance with the law, render that person personally liable to any action, claim or demand whatsoever.

Protection from personal liability.

47. (1) The Cabinet Secretary may, in consultation with the Board, make Regulations for better carrying into effect the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the Regulations made under this section may prescribe—

- (a) the criteria for exemptions granted under section 6;
- (b) requisite deposit for the housing under section 39(2);
- (c) identification documents under section 39;
- (d) regulations under Part IV;
- (e) the criteria for change of affordable housing unit;
- (f) the provisions on voluntary savings;
- (g) the provisions relating to off-take of affordable housing units;
- (h) the inclusivity and diversity within affordable housing schemes; and

elapse between the date of one meeting and the date of the next meeting.

(2) The notice for a meeting of the Board shall be in writing, and shall be for a period of at least seven days from the expected day of the meeting.

(3) The Chairperson of the Board shall preside over all meetings of the Board and in the absence of the Chairperson, a person designated by members of the Board present at a meeting shall preside.

(4) The Chairperson of the Board may, on the written request made by at least half of the members of the Board and within seven days of the request, convene an extraordinary meeting of the Board at such time and place as the Chairperson may appoint.

(5) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Board.

2. The quorum for the conduct of business at a meeting of the Board shall be fifty plus one of the total members of the Board.

Quorum.

3. Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in the case of an equality of votes the Chairperson or person presiding shall have a casting vote.

Decisions of the Board.

*The Affordable Housing Bill, 2023*

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“15. The Affordable Housing  
Act, 2024”

*Section 31B of No. 11 of 2007 which it is intended to repeal—*

Affordable Housing  
Levy.

**31B. (1)** Notwithstanding the provisions of section 3(2) (a), (b), (c) and (d) of the Act, each employee and employer shall pay a monthly levy to be known as the Affordable Housing Levy.

(2) The purpose of the Affordable Housing Levy shall be to provide funds for the development of affordable housing and associated social and physical infrastructure as well as the provision of affordable home financing to Kenyans.

(3) The Affordable Housing Levy shall not be used for any other purpose other than the development of affordable housing and associated social and physical infrastructure as well as the provision of affordable home financing to Kenyans.

(4) The monthly levy payable by the employer and employee shall be—

- (a) one point five per centum of the employee's gross monthly salary for the employee;
- (b) one point five per centum of the employee's monthly gross salary for the employer.

*Section 31C of No. 11 of 2007 which it is intended to repeal—*

Obligations of the  
employer.

**31C. (1)** An employer shall—

- (a) deduct an employee's monthly payment from the employee's gross monthly salary;
- (b) set aside the employer's monthly payment for each employee; and
- (c) not later than nine working days after the end of the month in which the payments are due, remit an amount comprising the employee and the employer's payment.

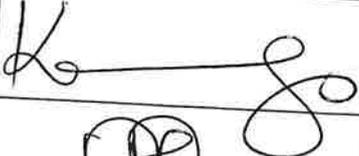
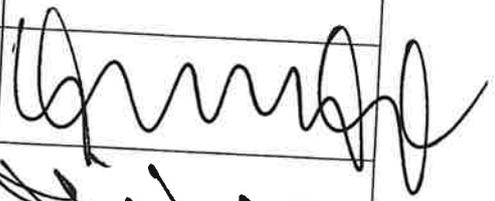
(2) An employer who fails to comply with this section shall be liable to payment of a penalty equivalent to two per cent of the unpaid funds for every month the same remains unpaid.

# APPENDIX 6

## Report Adoption

### ADOPTION OF THE REPORT ON THE AFFORDABLE HOUSING BILL, 2023 (NATIONAL ASSEMBLY BILLS NO.75 OF 2023)

WE, THE UNDERSIGNED MEMBERS OF THE SENATE STANDING COMMITTEE ON ROADS, TRANSPORTATION AND HOUSING, DO HEREBY APPEND OUR SIGNATURE TO ADOPT THIS REPORT-

NAMES	DESIGNATION	SIGNATURE
Sen. Paul Karungo Thangwa, MP	Chairperson	
Sen. Peris Pesi Tobiko, CBS, MP	Vice-Chairperson	
Sen. Nderitu John Kinyua, MP	Member	
Sen. (Rtd) Justice Stewart Madzayo, CBS, MP	Member	
Sen. Wambua Enoch Kiiro, MP	Member	
Sen. Dr. Lelegwe Steve Ltumbesi, MP	Member	
Sen. Chute Mohamed Said, MP	Member	
Sen. Kajwang' Moses Otieno, MP	Member	
Sen. Edwin Watanya Sifuna, MP	Member	