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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE CONSIDERATION OF THE SENATE AMENDMENTS TO THE
NATIONAL RATING BILL (NATIONAL ASSEMBLY BILL NO. 55 OF 2022)

CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

JUNE 2024

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 06 JUN 2024	DAY: THURSDAY
TABLED BY:	CHAIRPERSON, DEPARTMENTAL COMMITTEE ON LANDS
CLERK AT THE TABLE:	Anne Shuburo

LIST OF ANNEXURES	3
CHAIRPERSON'S FOREWORD	4
PART I	5
1.0 ESTABLISHMENT OF THE COMMITTEE.....	5
1.1 SUBJECT OF THE COMMITTEE	5
1.2 COMMITTEE MEMBERSHIP	5
1.3 COMMITTEE SECRETARIAT	7
PART II	8
2.0 BACKGROUND ON THE NATIONAL RATING BILL, 2022 (NATIONAL ASSEMBLY BILLS NO. 55 OF 2022)	8
PART III	9
3.0 OVERVIEW OF THE SENATE AMENDMENTS TO THE NATIONAL RATING BILL (<i>NATIONAL ASSEMBLY BILL NO. 55 OF 2022</i>).....	9
PART IV	13
4.0 COMMITTEE OBSERVATIONS	13
PART V.....	19
5.0 COMMITTEE RECOMMENDATIONS.....	19

MSB HL. 10

LIST OF ANNEXURES

- 1 Report adoption Schedule
- 2 Minutes

CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Lands on its consideration of the Senate Amendments to National Rating Bill (*National Assembly Bills No. 55 of 2022*).

The National Assembly considered the National Rating Bill, 2022 (National Assembly Bill No. 22 of 2023) and passed it with amendments on 11th October 23 and forwarded the same to the Senate for concurrence pursuant to the provisions of Standing Order 144 and Article 110 of the Constitution. The Senate considered the Bill and passed it with amendments on 9th May, 2024 and referred back to the National Assembly for consideration in accordance with Article 112 of the Constitution.

The Senate amendments to the Bill were subsequently referred to the Departmental Committee on Lands for consideration and reporting back to the House.

The Committee considered the proposed amendments to the Bill and recommended that the House approves Clauses 14, 29 and 32(a) and rejects the proposed amendments to Clauses 2, 12, 20, 30, 32(b)&(c), 34, 56, new clause 24A and new clause 30A..

On behalf of the Departmental Committee on Lands and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Senate Amendment to the National Rating Bill (*National Assembly Bill No. 55 of 2022*) with recommendation that the Bill be **approved and rejects some of the Senate amendments to the Bill as reported by the Committee.**

Hon. Joash Nyamache Nyamoko, M.P.
Chairperson, Departmental Committee on Lands

PART I

PREFACE

1.0 Establishment of the Committee

1. The Departmental Committee on Lands is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandates pursuant to the **Standing Order 216 (5)** are as follows:
 - i. **To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;**
 - ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
 - iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - iv. *To study and review all legislation referred to it;*
 - v. *To study, assess and analyze the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - vi. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
 - viii. *To examine treaties, agreements and conventions;*
 - ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - xi. *To examine any questions raised by Members on a matter within its mandate.*

1.1 Subject of the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to oversee: matters related to lands and settlement including, land policy, land transactions, survey & mapping, land adjudication, settlement, land registration, land valuation, administration of community and public land and land information and management system.
3. In executing its mandate, the Committee oversees the following government ministries and departments and agencies (MDAs), namely:
 - i. The State Department for Lands and Physical Planning
 - ii. The National Land Commission

1.2 Committee Membership

4. The Departmental Committee on Lands was constituted by the House on 27th October, 2022 and comprises of the following Members:

Chairperson
Hon. Joash Nyamache Nyamoko, MP

North Mugirango Constituency

UDA Party

Vice-Chairperson

Hon. Jayne Kihara, MP

Naivasha Constituency

UDA Party

Members

Hon. Dr. Rachael Kaki Nyamai, MP

Kitui South Constituency

Jubilee Party

Hon. Joseph Hamisi Dena, MP

Nominated

ANC Party

Hon. Dr. Gideon Ochanda, MP

Bondo Constituency

ODM Party

Hon. Esther M. Passaris, MP

Women Representative Nairobi County

ODM Party

Hon. Mathias Robi Nyambabe, MP

Kuria West Constituency

UDA Party

Hon. Ali Wario Guyo, MP

Garsen Constituency

ODM Party

Hon. George Koimburi, MP

Juja Constituency

UDA Party

Hon. Omar Mwinyi, MP

Changamwe Constituency

ODM Party

Hon. Paul Katan, MP

Kaloleni Constituency

ODM Party

Hon. Thaddeus Nzambia, MP

Kilome Constituency

WIPER Party

Hon. Josses Lelmengit, MP

Emgwen Constituency

UDA Party

Hon. Anthony Kenga Mupe, MP

Rabai Constituency

JUBILEE Party

Hon. Gachoki Gitari, MP

Kirinyaga Central Constituency

UDA Party

1.3 Committee Secretariat

5. The Committee is facilitated by the following staff:

Mr. Joshua Ondari
Clerk Assistant I/Head of Secretariat

Mr. Binensa Mabungu
Clerk Assistant III

Ms. Judith Kiprop
Fiscal Analyst

Mr. Sidney Lugaga
Senior Legal Counsel

Ms. Brenda Michira
Research Officer III

Ms. Mary Kamande
Hansard Officer III

Ms. Mary Kamande
Protocol Officer

Ms. Fridah Ngari
Media Relations Officer

Mr. Cosmas Akhonya
Audio Officer

Mr. Yeziel Jillo
Serjeant At – Arms

PART II

2.0 BACKGROUND ON THE NATIONAL RATING BILL, 2022 (NATIONAL ASSEMBLY BILLS NO. 55 OF 2022)

6. The National Rating Bill (National Assembly Bill No. 55 of 22) was published vide a Kenya Gazette Supplement No. 185 on 15th November, 2022 as a Bill to provide a comprehensive legislative framework for imposition of property rates on land and buildings by county government; to provide for the valuation of rateable property; to provide for appointment functions and powers of property valuers; to provide for establishment, powers and functions of the National Rating Tribunal and for connected purposes.
7. The National Assembly considered the said Bill and passed it on Wednesday, 11th October, 2023 with amendments and referred the Bill to the Senate for consideration. The Senate considered and passed the said Bill on Thursday, 9th May, 2024 with amendments as contained in this Report.
8. In this regard, the Senate amendments were subsequently committed to the Departmental Committee on Lands for consideration and reporting to the House.

PART III

3.0 OVERVIEW OF THE SENATE AMENDMENTS TO THE NATIONAL RATING BILL (*NATIONAL ASSEMBLY BILL NO. 55 OF 2022*)

9. The following amendments to the National Rating Bill (National Assembly Bills No. 55 of 2022) were passed by the Senate on Thursday, 9th May, 2024 —

CLAUSE 2

10. THAT clause 2 of the Bill be amended by deleting —

- (a) the definition of the term 'occupier' and inserting therefor the following new definition

"occupier" means, in relation to rateable property, a person who is in physical possession of premises, or a person who has control over the premises, where the rateable owner is unknown;

- (b) the definition of the term 'valuation roll' and inserting therefor the following new definition—

"valuation roll" means a roll prepared in accordance with this Act;

- (c) the definition of 'Chief Government Valuer' and inserting the following new definition

"Chief Government Valuer" means a valuer appointed under section 24A.

CLAUSE 12

11. THAT clause 12 of the Bill be amended in —

- (a) subclause (3) by inserting the words 'and the Council of County Governors' immediately after the words 'National Land Commission'.

- (b) subclause (4) by inserting the words 'in consultation with the Council of County Governors' immediately after the words 'The Cabinet Secretary may'.

CLAUSE 14

12. THAT clause 14 be amended by inserting the following new subclause immediately after subclause (3) —

- (4) The amount of the rates set under subsection (1) shall not exceed four per cent of the unimproved 'value of the rateable property.

CLAUSE 20

13. THAT clause 20 of the Bill be amended in —

- (a) subclause (2) by inserting the words 'and the Council of County Governors' immediately after the words 'the Cabinet Secretary'.

- (b) subclause (6) by deleting the words 'recommend to the Cabinet Secretary Ministry of Lands to further review before submission' and inserting therefor the word 'submit'.

CLAUSE 29

14. THAT clause 29 of the Bill be amended in subclause (1) by deleting the word 'five' appearing immediately after the words 'undertaken in every' and inserting therefor the word 'ten'.

CLAUSE 30

15. THAT clause 30 of the Bill be amended by deleting — (a) subclause (4);
(b) sub clause (5);
and
(c) subclause (6).

CLAUSE 32

16. THAT clause 32 of the Bill be amended -
(a) in subclause (3) by inserting the words 'of preparing a report under subsection (4)' immediately after the words 'Valuer for purposes';
(b) in subclause (6) by deleting the word 'tabling' appearing immediately after the words 'county assembly for' and inserting therefor the word 'approval'.
(c) by inserting the following new subclauses immediately after subclause (6) —
(7) The County Assembly shall, within sixty (60) sitting days of submission under subsection (6), by resolution approve or reject the draft valuation roll or draft supplementary valuation roll.
(8) Where the County Assembly fails to make a resolution within the period under subsection (7), the draft valuation roll or draft supplementary valuation roll shall be deemed to have been approved.

CLAUSE 34

17. THAT clause 34 of the Bill be amended in subclause (6) by deleting the word 'may' appearing immediately after the words 'a county government' and inserting therefor the word "shall".

CLAUSE 56

18. THAT clause 56 of the Bill be amended in —
(a) subclause (1) by deleting the word 'may' appearing immediately after the words 'The Cabinet Secretary' and inserting therefor the words 'shall, in consultation with the Council of County Governors, '
(b) subclause (2) by deleting the word 'may', appearing immediately after the words "the Cabinet Secretary" and inserting therefor the words "shall, in consultation with the Council of County Governors,".
(c) subclause (2) by inserting the following new paragraph immediately after paragraph (a)
(aa) the technological systems to be used in the preparation and implementation of the valuation roll or the supplementary valuation roll.

NEW CLAUSE 24A –

19. THAT the Bill be amended by inserting the following new clauses immediately after clause 24 –

Chief Government Valuer 24A.

- (1) There shall be a Chief Government Valuer who shall be the principal advisor to the National Government and County governments on all matters relating to valuation
- (2) The Chief Government Valuer shall be appointed by the Public Service Commission through a competitive recruitment process

Qualification of the Chief Government Valuer.

24B. (1) A person is qualified for appointment as the Chief Government Valuer if that person —

- (a) is a citizen of Kenya;
- (b) has a minimum of a Bachelor's degree from a university recognized in Kenya in — (i) land economics;
(ii) real estate; or;
(iii) any other relevant field;
- (c) has at least fifteen years' experience in the valuation practice;
- (d) is a full member of the Institution of Surveyors of Kenya (Chapter on Valuation) and in good standing; and
- (e) meets the requirements of Chapter Six of the Constitution.

NEW CLAUSE 30A.

20. THAT the Bill be amended by inserting the following new Clause immediately after clause 30—

Supplementary Valuation Roll 30A.

- (1) The county government shall, in preparing a valuation roll, rely on data or information that was used in the preparation of the valuation roll to assign values to be adopted on the properties contained in a supplementary valuation roll.
- (2) A supplementary valuation roll shall include only those alterations and additions to the valuation roll which are permitted by this section.
- (3) The draft supplementary valuation roll shall take into account —

- (a) rateable property omitted from valuation;
- (b) new rateable property;
- (c) rateable property which is subdivided or consolidated with other rateable property; and,
- (d) re-categorization of the rate on the change of use of the rateable property.

PART IV

4.0 COMMITTEE OBSERVATIONS

21. Having considered the Senate Amendments to National Rating Bill, 2022 the Committee made the following observations:

CLAUSE 2

22. THAT clause 2 of the Bill be amended by deleting —

- (a) the definition of the term 'occupier' and inserting therefor the following new definition

"occupier" means, in relation to rateable property, a person who is in physical possession of premises, or a person who has control over the premises, where the rateable owner is unknown;

Observation: The Committee may reject the proposal as it does not address any mischief as the definition address an occupier as a person who has control over rateable property.

- (b) the definition of the term 'valuation roll' and inserting therefor the following new definition—

"valuation roll" means a roll prepared in accordance with this Act;

Observation: The Committee rejected the proposal as it does not address any mischief to the extent that the existing provision is not ambiguous as it provides that a valuation roll is one prepared in accordance with clause 29 of the Bill. Clause 29 of the Bill clearly provides for the Preparation of valuation rolls and supplementary valuation rolls.

- (C) the definition of 'Chief Government Valuer' and inserting the following new definition

"Chief Government Valuer" means a valuer appointed under section 24A.

Observation: The Committee rejected the proposal as it does not address any mischief to the extent that the existing provision is not ambiguous in defining the meaning of the term "Chief Government Valuer"

CLAUSE 12

23. THAT clause 12 of the Bill be amended in —

- (a) subclause (3) by inserting the words 'and the Council of County Governors' immediately after the words 'National Land Commission'.

Observation: The Committee rejected the proposed amendment. The Committee rejected the proposal to insert the Council of County Governors in the consultation on prescribing guidelines on payment of royalties to the extent that Article 62(3) of the Constitution

provides that Public land classified with natural resources, forestry land shall vest in and be held by the national government in trust for the people of Kenya and shall be administered on their behalf by the National Land Commission.

- (b) subclause (4) by inserting the words 'in consultation with the Council of County Governors' immediately after the words 'The Cabinet Secretary may'.

Observation: The Committee rejected the proposed amendment to the extent that the proposal rejects fails to acknowledge that clause 4(1) of the Bill, the Cabinet Secretary shall exercise regulation making powers in accordance with Articles 10, 210 and 232 of the Constitution by ensuring that there is democracy and participation of the people in the process of enacting regulations.

CLAUSE 14

24. THAT clause 14 be amended by inserting the following new subclause immediately after subclause (3) —

- (4) The amount of the rates set under subsection (1) shall not exceed four per cent of the unimproved 'value of the rateable property.

Observation: The Committee accepted the proposed amendment. The effect of the proposal is to insert a new sub clause providing for a cap on the rate calculation percentage at no more than 4% of the value of a property listed in the valuation roll.

CLAUSE 20

25. THAT clause 20 of the Bill be amended in —

- (a) subclause (2) by inserting the words 'and the Council of County Governors' immediately after the words 'the Cabinet Secretary'.

Observation: The Committee rejected the proposed amendment to the extent that the National Land Commission administers public land on behalf of the county governments in accordance with Article 62 of the Constitution.

- b) subclause (6) by deleting the words 'recommend to the Cabinet Secretary Ministry of Lands to further review before submission' and inserting therefor the word 'submit'.

Observation: The Committee rejected the proposed amendment. The contribution in lieu of rates for National Government are made in respect of the following categories of land, namely-

- a) Land owned and registered in the name of National Government*
- b) Land occupied by National Government Institutions*
- c) Gazetted forests*
- d) Land allocated to private entities by National Government but whose titles have not been registered yet.*

It is therefore not prudent to remove the role of the Cabinet Secretary in charge of land matters who is the custodian of land registration records from auditing valuation rolls

Observation: The Committee accepted the proposed amendment. The Committee resolved that this proposal sought to bring clarity to sub-clause (3) as it lacked clarity.

(b) in subclause (6) by deleting the word 'tabling' appearing immediately after the words 'county assembly for' and inserting therefor the word 'approval'.

Observation: The Committee rejected the proposed amendment. The effect of the proposal is to provide that the draft valuation roll or draft supplementary valuation roll shall be submitted to the county assembly for tabling.

(c) by inserting the following new subclauses immediately after subclause (6) —

(9) The County Assembly shall, within sixty (60) sitting days of submission under subsection (6), by resolution approve or reject the draft valuation roll or draft supplementary valuation roll.

(10) Where the County Assembly fails to make a resolution within the period under subsection (7), the draft valuation roll or draft supplementary valuation roll shall be deemed to have been approved.

Observation: The Committee rejected the proposed amendment. There is no need of describing the timelines in the Act.

CLAUSE 34

29. THAT clause 34 of the Bill be amended in subclause (6) by deleting the word 'may' appearing immediately after the words 'a county government' and inserting therefor the word "shall".

Observation: The Committee rejected the proposed amendment. The effect of the proposal is to make it mandatory for each county government to provide in its county legislation that a County Valuation Board shall be constituted to hear and determine objections valuation or supplementary valuation roll.

CLAUSE 56

30. THAT clause 56 of the Bill be amended in —

(a) subclause (1) by deleting the word 'may' appearing immediately after the words 'The Cabinet Secretary' and inserting therefor the words 'shall, in consultation with the Council of County Governors, '

Observation: The Committee rejected the proposed amendment. The effect of the proposal is to make it mandatory for the Cabinet Secretary to consult the Council of Governors when making regulations under the Bill.

as it may lead to National Government making contribution in lieu of rates for the same land that is already alienated for private entities hence leading to double payment.

CLAUSE 29

26. THAT clause 29 of the Bill be amended in subclause (1) by deleting the word 'five' appearing immediately after the words 'undertaken in every' and inserting therefor the word 'ten'.

Observation: The Committee accepted the proposed amendment. The proposed amendment to provide that the preparation of a valuation roll should be undertaken every ten (10) years rather than five (5) years.

CLAUSE 30

27. THAT clause 30 of the Bill be amended by deleting —

- (a) subclause (4);

Observation: The Committee rejected the proposed amendment. The proposal as it does not address a mischief in preparation of the supplementary roll as provided to the extent that clause 30 of the Bill contains clear provisions on the process of preparation of supplementary valuation rolls and there is no reason necessitating separating provisions regulating the preparation of valuation rolls and supplementary valuation rolls.

- (b) sub clause (5);
and

Observation: The Committee rejected the proposed amendment. The proposal as it does not address a mischief in preparation of the supplementary roll as provided to the extent that clause 30 of the Bill contains clear provisions on the process of preparation of supplementary valuation rolls and there is no reason necessitating separating provisions regulating the preparation of valuation rolls and supplementary valuation rolls.

- (c) subclause (6).

Observation: The Committee rejected the proposed amendment. The proposal as it does not address a mischief in preparation of the supplementary roll as provided to the extent that clause 30 of the Bill contains clear provisions on the process of preparation of supplementary valuation rolls and there is no reason necessitating separating provisions regulating the preparation of valuation rolls and supplementary valuation rolls.

CLAUSE 32

28. THAT clause 32 of the Bill be amended -

- (a) in subclause (3) by inserting the words 'of preparing a report under subsection (4)' immediately after the words 'Valuer for purposes';

- (b) subclause (2) by deleting the word 'may', appearing immediately after the words "the Cabinet Secretary" and inserting therefor the words "shall, in consultation with the Council of County Governors,".

Observation: The Committee rejected the proposed amendment to the extent that the proposal rejects fails to acknowledge that clause 4(1) of the Bill, the Cabinet Secretary shall exercise regulation making powers in accordance with Articles 10, 210 and 232 of the Constitution by ensuring that there is democracy and participation of the people in the process of enacting regulations.

subclause (2) by inserting the following new paragraph immediately after paragraph (a)

- (aa) the technological systems to be used in the preparation and implementation of the valuation roll or the supplementary valuation roll.

Observation: The Committee rejected the proposed amendment to the extent that clause 6 of the Bill expressly provides guidelines stating that each county government shall establish or employ appropriate technological system in the preparation and implementation of the valuation roll or the supplementary valuation roll and there was not justification in limiting the freedom of counties in adopting the most appropriate technological system in the preparation and implementation of the valuation roll or the supplementary valuation roll.

NEW CLAUSE 24A

31. THAT the Bill be amended by inserting the following new clauses immediately after clause 24 -

Chief Government Valuer 24A.

Qualification of the
Chief Government
Valuer.

24B. (1) A person is qualified for appointment as the Chief Government Valuer if that person —

- (f) is a citizen of Kenya;
 - (g) has a minimum of a Bachelor's degree from a university recognized in Kenya in —
 - (i) land economics;
 - (ii) real estate; or;
 - (iii) any other relevant field;
 - (h) has at least fifteen years' experience in the valuation practice;
 - (i) is a full member of the Institution of Surveyors of Kenya (Chapter on Valuation) and in good standing; and
 - (j) meets the requirements of Chapter Six of the Constitution.
32. There shall be a Chief Government Valuer who shall be the principal advisor to the National Government and County governments on all matters relating to valuation
33. The Chief Government Valuer shall be appointed by the Public Service Commission through a competitive recruitment process

Observation: The Committee rejected the proposed amendments on the basis that the purpose of the office of the Chief Government Valuer is to act as the principal advisor to the National Government and county governments on valuation, and therefore the job description is best determined by the Cabinet Secretary in consultation with the Public Service Commission. This is in addition to the fact that the proposal with no justification appears to favour a person appointed under the Survey Act, Cap.299 over a person appointed under the Valuers Act, Cap 532.

NEW CLAUSE 30A.

32. THAT the Bill be amended by inserting the following new Clause immediately after clause 30—

Supplementary Valuation Roll 30A.

- (1) The county government shall, in preparing a valuation roll, rely on data or information that was used in the preparation of the valuation roll to assign values to be adopted on the properties contained in a supplementary valuation roll.
- (4) A supplementary valuation roll shall include only those alterations and additions to the valuation roll which are permitted by this section.
- (5) The draft supplementary valuation roll shall take into account —
 - (e) rateable property omitted from valuation;
 - (f) new rateable property;
 - (g) rateable property which is subdivided or consolidated with other rateable property; and,
 - (h) re-categorization of the rate on the change of use of the rateable property

Observation: The Committee rejected the proposed amendment. The proposal as it does not address any mischief to the extent that clause 30 of the Bill expressly provides for the Preparation of draft valuation rolls and draft supplementary valuation rolls.

PART V

5.0 COMMITTEE RECOMMENDATIONS


33. Having considered the Senate amendments to the National Rating Bill 2022, the Committee recommends that;

1) The House agrees with the proposed Senate Amendments to—

- (i) clause 14;
- (ii) Clause 29, and
- (iii) clause 32(a).

2) The House rejects the Senate amendments to—

- (i) Clauses 2;
- (ii) clause 12;
- (iii) clause 20;
- (iv) clause 30;
- (v) clause 32(b&c);
- (vi) clause 34;
- (vii) clause 56;
- (viii) New Clause 24A; and
- (ix) New Clause 30A

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 06 JUN 2024	DAY:
TABLED BY:	
CLERK AT THE TABLE:	

SIGNED.....  DATE 06/06/2024

HON. JOASH NYAMACHE NYAMOKO, M.P.
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON LANDS



THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT (THIRD SESSION) 2024

DEPARTMENTAL COMMITTEE ON LANDS – MEMBERS ATTENDANCE SCHEDULE

AGENDA: Adoption of the Report on Senate Amendment to the National Petting Bill 2022
VENUE: Committee Room on 2nd Floor, (controversial) House DATE: 4/6/2024 TIME: 10:00 am

NO.	MEMBER	SIGNATURE
1.	Hon. Nyamoko Joash Nyamache, HSC, MP	
2.	Hon. Kihara Jayne Wanjiru Njeri, MP	
3.	Hon. Rachael Kaki Nyamai, CBS, MP	
4.	Hon. Ogolla Gideon Ochanda, MP	
5.	Hon. Shimbwa Omar Mwinyi, MP	
6.	Hon. Robi Mathias Nyamabe, MP	
7.	Hon. Passaris Esther Muthoni, MP	
8.	Hon. Gitari Joseph Gachoki, MP	
9.	Hon. Guyo Ali Wario, MP	
10.	Hon. Nzambia Thuddeus Kithua, MP	
11.	Hon. Ndung'u George Koimhuri, MP	
12.	Hon. Mupe Anthony Kenga, MP	
13.	Hon. Katana Paul Kahindi, MP	
14.	Hon. Joseph Hamisi Dena, MP	
15.	Hon. Lelmengit Josses Kiptoo Kosgey, MP	

Forwarded By:

Signed:

Date:

Name of Committee Clerk:

Approved By:

Signed:

Date: 6/6/24

Mr. Peter Chemweno- Director, Directorate of Departmental Committees



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT – THIRD SESSION, 2024

DEPARTMENTAL COMMITTEE ON LANDS

MINUTES OF THE 28TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD AT THE COMMITTEE ROOM, 2ND FLOOR CONTINENTAL HOUSE, ON TUESDAY, 4TH JUNE 2024 AT 10:00 AM.

PRESENT

1. Hon. Nyamoko Joash Nyamache, M.P. *-Chairperson*
2. Hon. Kihara Jayne Wanjiru Njeri, M.P. *- Vice Chairperson*
3. Hon. Rachael Kaki Nyamai, CBS, M.P
4. Hon. Robi Mathias Nyamabe M.P
5. Hon. Passaris Esther Muthoni, M.P.
6. Hon. Gitari Joseph Gachoki, M.P.
7. Hon. Katana Paul Kahindi, M.P.
8. Hon. Nzambia Thuddeus Kithua, M.P.
9. Hon. Lelmengit Josses Kiptoo Kosgey, M.P.

ABSENT WITH APOLOGIES

1. Hon. Shimbwa Omar Mwinyi, M.P.
2. Hon. Ogolla Gideon Ochanda, M.P.
3. Hon. Ndung'u George Koimburi, M.P.
4. Hon. Guyo Ali Wario, M.P.
5. Hon. Joseph Hamisi Dena, M.P.
6. Hon. Mupe Anthony Kenga, M.P.

COMMITTEE SECRETARIAT

- | | | |
|-----------------------|---|----------------------|
| 1. Mr. Joshua Ondari | - | Clerk Assistant I |
| 2. Mr. Sidney Lugaga | - | Senior Legal Counsel |
| 3. Ms. Judith Kiprop | - | Fiscal Analyst III |
| 4. Ms. Brenda Michira | - | Research Officer III |
| 5. Mr. Yeziel Jillo | - | Sergeant at Arms |

MIN/NO./NA/DC-LANDS/2024/189: PRELIMINARIES

The Chairperson called the meeting to order at half past ten o'clock with a word of prayer by Hon. Passaris Esther Muthoni, M.P.

MIN/NO./NA/DC-LANDS/2024/190: ADOPTION OF THE AGENDA

AGENDA

- (C) the definition of 'Chief Government Valuer' and inserting the following new definition

"Chief Government Valuer" means a valuer appointed under section 24A.

Observation: The Committee rejected the proposal as it does not address any mischief to the extent that the existing provision is not ambiguous in defining the meaning of the term "Chief Government Valuer"

CLAUSE 12

THAT clause 12 of the Bill be amended in —

- (a) subclause (3) by inserting the words 'and the Council of County Governors' immediately after the words 'National Land Commission'.

Observation: The Committee rejected the proposed amendment. The Committee rejected the proposal to insert the Council of County Governors in the consultation on prescribing guidelines on payment of royalties to the extent that Article 62(3) of the Constitution provides that Public land classified with natural resources, forestry land shall vest in and be held by the national government in trust for the people of Kenya and shall be administered on their behalf by the National Land Commission.

- (b) subclause (4) by inserting the words 'in consultation with the Council of County Governors' immediately after the words 'The Cabinet Secretary may'.

Observation: The Committee rejected the proposed amendment to the extent that the proposal rejects fails to acknowledge that clause 4(1) of the Bill, the Cabinet Secretary shall exercise regulation making powers in accordance with Articles 10, 210 and 232 of the Constitution by ensuring that there is democracy and participation of the people in the process of enacting regulations.

CLAUSE 14

THAT clause 14 be amended by inserting the following new subclause immediately after subclause (3) —

- (4) The amount of the rates set under subsection (1) shall not exceed four per cent of the unimproved 'value of the rateable property.

Observation: The Committee accepted the proposed amendment. The effect of the proposal is to insert a new sub clause providing for a cap on the rate calculation percentage at no more than 4% of the value of a property listed in the valuation roll.

CLAUSE 20

THAT clause 20 of the Bill be amended in —

- (c) subclause (2) by inserting the words 'and the Council of County Governors' immediately after the words 'the Cabinet Secretary'.

Observation: The Committee rejected the proposed amendment to the extent that the National Land Commission administers public land on behalf of the county governments in accordance with Article 62 of the Constitution.

- b) subclause (6) by deleting the words 'recommend to the Cabinet Secretary Ministry of Lands to further review before submission' and inserting therefor the word 'submit'.

Observation: The Committee rejected the proposed amendment. The contribution in lieu of rates for National Government are made in respect of the following categories of land, namely-

- a) *Land owned and registered in the name of National Government*
- b) *Land occupied by National Government Institutions*
- c) *Gazetted forests*
- d) *Land allocated to private entities by National Government but whose titles have not been registered yet.*

It is therefore not prudent to remove the role of the Cabinet Secretary in charge of land matters who is the custodian of land registration records from auditing valuation rolls as it may lead to National Government making contribution in lieu of rates for the same land that is already alienated for private entities hence leading to double payment.

CLAUSE 29

THAT clause 29 of the Bill be amended in subclause (1) by deleting the word 'five' appearing immediately after the words 'undertaken in every' and inserting therefor the word 'ten'.

Observation: The Committee accepted the proposed amendment. The proposed amendment to provide that the preparation of a valuation roll should be undertaken every ten (10) years rather than five (5) years.

CLAUSE 30

THAT clause 30 of the Bill be amended by deleting —

- (a) subclause (4);

Observation: The Committee rejected the proposed amendment. The proposal as it does not address a mischief in preparation of the supplementary roll as provided to the extent that clause 30 of the Bill contains clear provisions on the process of

preparation of supplementary valuation rolls and there is no reason necessitating separating provisions regulating the preparation of valuation rolls and supplementary valuation rolls.

- (b) sub clause
(5); and

Observation: The Committee rejected the proposed amendment. The proposal as it does not address a mischief in preparation of the supplementary roll as provided to the extent that clause 30 of the Bill contains clear provisions on the process of preparation of supplementary valuation rolls and there is no reason necessitating separating provisions regulating the preparation of valuation rolls and supplementary valuation rolls.

- (c) subclause(6
).

Observation: The Committee rejected the proposed amendment. The proposal as it does not address a mischief in preparation of the supplementary roll as provided to the extent that clause 30 of the Bill contains clear provisions on the process of preparation of supplementary valuation rolls and there is no reason necessitating separating provisions regulating the preparation of valuation rolls and supplementary valuation rolls.

CLAUSE 32

THAT clause 32 of the Bill be amended -

- (a) in subclause (3) by inserting the words 'of preparing a report under subsection (4)' immediately after the words 'Valuer for purposes';

Observation: The Committee accepted the proposed amendment. The Committee resolved that this proposal sought to bring clarity to sub-clause (3) as it lacked clarity.

- (b) in subclause (6) by deleting the word 'tabling' appearing immediately after the words 'county assembly for' and inserting therefor the word 'approval'.

Observation: The Committee rejected the proposed amendment. The effect of the proposal is to provide that the draft valuation roll or draft supplementary valuation roll shall be submitted to the county assembly for tabling.

- (c) by inserting the following new subclauses immediately after subclause (6) —

- (7) The County Assembly shall, within sixty (60) sitting days of submission under subsection (6), by resolution approve or reject the draft valuation roll or draft supplementary valuation roll.
- (8) Where the County Assembly fails to make a resolution within the period under subsection (7), the draft valuation roll or draft supplementary valuation roll shall be deemed to have been approved.

Observation: The Committee rejected the proposed amendment. There is no need of describing the timelines in the Act.

CLAUSE 34

THAT clause 34 of the Bill be amended in subclause (6) by deleting the word 'may' appearing immediately after the words 'a county government' and inserting therefor the word "shall".

Observation: The Committee rejected the proposed amendment. The effect of the proposal is to make it mandatory for each county government to provide in its county legislation that a County Valuation Board shall be constituted to hear and determine objections valuation or supplementary valuation roll.

CLAUSE 56

THAT clause 56 of the Bill be amended in —

- (d) subclause (1) by deleting the word 'may' appearing immediately after the words 'The Cabinet Secretary' and inserting therefor the words 'shall, in consultation with the Council of County Governors, '

Observation: The Committee rejected the proposed amendment. The effect of the proposal is to make it mandatory for the Cabinet Secretary to consult the Council of Governors when making regulations under the Bill.

- (e) subclause (2) by deleting the word 'may', appearing immediately after the words "the Cabinet Secretary" and inserting therefor the words "shall, in consultation with the Council of County Governors,".

Observation: The Committee rejected the proposed amendment to the extent that the proposal rejects fails to acknowledge that clause 4(1) of the Bill, the Cabinet Secretary shall exercise regulation making powers in accordance with Articles 10, 210 and 232 of the Constitution by ensuring that there is democracy and participation of the people in the process of enacting regulations.

subclause (2) by inserting the following new paragraph immediately after paragraph (a)

- (aa) the technological systems to be used in the preparation and implementation of the valuation roll or the supplementary valuation roll.

Observation: The Committee rejected the proposed amendment to the extent that clause 6 of the Bill expressly provides guidelines stating that each county government shall establish or employ appropriate technological system in the preparation and implementation of the valuation roll or the supplementary valuation roll and there was not justification in limiting the freedom of counties in adopting the most appropriate technological system in the preparation and implementation of the valuation roll or the supplementary valuation roll.

NEW CLAUSE 24A

THAT the Bill be amended by inserting the following new clauses immediately after clause 24 -

- | | |
|---|--|
| Qualification of the Chief Government Valuer. | 24B. (1) A person is qualified for appointment as the Chief Government Valuer if that person — |
| | (a) is a citizen of Kenya; |
| | (b) has a minimum of a Bachelor's degree from a university recognized in Kenya in — (i) land economics; |
| | (ii) real estate; or; |
| | (iii) any other relevant field; |
| | (c) has at least fifteen years' experience in the valuation practice; |
| | (d) is a full member of the Institution of Surveyors of Kenya (Chapter on Valuation) and in good standing; and |
| | (e) meets the requirements of Chapter Six of the Constitution. |

Chief Government Valuer 24A.

There shall be a Chief Government Valuer who shall be the principal advisor to the National Government and County governments on all matters relating to valuation
The Chief Government Valuer shall be appointed by the Public Service Commission through a competitive recruitment process

Observation: The Committee rejected the proposed amendments on the basis that the purpose of the office of the Chief Government Valuer is to act as the principal advisor to the National Government and county governments on valuation, and therefore the job description is best determined by the Cabinet Secretary in consultation with the Public Service Commission. This is in addition to the fact that the proposal with no justification appears to favour a person appointed under the Survey Act, Cap.299 over a person appointed under the Valuers Act, Cap 532.

NEW CLAUSE 30A.

THAT the Bill be amended by inserting the following new Clause immediately after clause 30—

Supplementary Valuation Roll 30A.

- (1) The county government shall, in preparing a valuation roll, rely on data or information that was used in the preparation of the valuation roll to assign values to be adopted on the properties contained in a supplementary valuation roll.
- (2) A supplementary valuation roll shall include only those alterations and additions to the valuation roll which are permitted by this section.
- (3) The draft supplementary valuation roll shall take into account —
 - (a) rateable property omitted from valuation;
 - (b) new rateable property;
 - (c) rateable property which is subdivided or consolidated with other rateable property; and,
 - (d) re-categorization of the rate on the change of use of the rateable property

Observation: The Committee rejected the proposed amendment. The proposal as it does not address any mischief to the extent that clause 30 of the Bill expressly provides for the Preparation of draft valuation rolls and draft supplementary valuation rolls.

The Report was adopted after having been proposed and seconded by Hon. Lelmengit Josses Kiptoo Kosgey, MP and Hon. Joseph Gitari, MP respectively.

MIN/NO.NA/DC-LANDS/2024/192:

**CONSIDERATION OF THE LAND
(AMENDMENT) BILL
(LEGISLATIVE PROPOSAL) BY
HON. JOSEPH GITARI, MP**

The Hon. Joseph Gitari, MP took the Committee through his proposal as follows-

1. The principal object of the legislative proposal is to amend the Land Act, 2012 to provide for registration, licensing and regulation of land dealing entities in order to protect the interest of persons buying land from such companies. It aims to ensure that all entities dealing in land are regulated and set a minimum licensing fee for registration of land dealing entities and impose penalties for non-compliance.
2. **Clause 2** of the legislative proposal proposes to introduce a New PART VA containing detailed provisions regulating land dealing entities.

3. **New Clause 54A** under New PART VA mandates the Chief Land Registrar to maintain a register of all land dealing entities and defines Land Dealing Entities.
4. **New Clause 54B** under New PART VA introduces new provisions regulating application for registration as a land dealing entities and the considerations of the application.
5. **New Clause 54C** under New PART VA introduces new provisions regulating suitability to hold a certificate of registration as a land dealing entity.
6. **New Clause 54** under New PART VA introduces new provisions regulating provision of a certificate and conditions imposed by the Registrar.
7. **New Clause 54E** under New PART VA introduces new provisions regulating issuance of certificate, display of certificate and penalty for non-display, or display of an invalid certificate, for the duration of validity of a certificate and transfer of certificate and penalty for such action.
8. **New Clause 54F** under New PART VA introduces new provisions regulating rejection by the Registrar of an application for registration of a Land Dealing Entity, the grounds for rejection and during for notification of a rejection.
9. **New Clause 54G** under New PART VA introduces new provisions regulating cancellation of a certificate, grounds for cancellation and notification of a cancellation.
10. **New Clause 54H** under New PART VA introduces a penalty for offences committed under this part.
11. **Clause 3** of the Bill introduces new paragraphs under section 160 of the Act empowering the Cabinet Secretary to make regulations on land dealing entities.

MIN/NO.NA/DC-LANDS/2024/193:

ANY OTHER BUSINESS

The Chairperson informed the Committee as follows-

- a) The Committee is scheduled for a field visit to Uasin Gishu County on 6th – 8th June 2024 to establish the ownership of the land being contested by Moi University and Ngeria Estate Squatters;
- b) The Land Laws (Amendment) Bill 2023 was appearing in the order paper of that day. He urged Members to be present in the House and support the Committee report on the Bill; and

- c) The Principal Secretary, State Department for Cooperative Development was scheduled to appear before the Committee to respond to Drumvale Cooperative Society's Land matters on Tuesday, 28th May, 2024, however, the PS did write to the Committee requesting the meeting to be rescheduled to a later date.

MIN/NO.NA/DC-LANDS/2024/194:

ADJOURNMENT

There being no other business, the meeting was adjourned at 12.33 pm. The next meeting would be held on notice.

SIGNED.....

DATE.....

06/06/2024

HON. JOASH NYAMACHE NYAMOKO, MP
(CHAIRPERSON)

REPUBLIC OF KENYA

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'Bunge', Nairobi The Senate

Nairobi, Kenya

PARLIAMENT OF KENYA
OFFICE OF THE CLERK OF THE SENATE

SENATE AMENDMENTS TO THE NATIONAL RATING BILL (NATIONAL
ASSEMBLY BILLS No. 55 OF 2022)

The following amendments to the National Rating Bill (National Assembly Bills No. 55 of 2022) were passed by the Senate on Thursday, 9th May, 2024 —

CLAUSE 12

THAT clause 12 of the Bill be amended in —

- (a) subclause (3) by inserting the words 'and the Council of County Governors' immediately after the words 'National Land Commission'.
- (b) subclause (4) by inserting the words 'in consultation with the Council of County Governors' immediately after the words 'The Cabinet Secretary may'.

CLAUSE 14

THAT clause 14 be amended by inserting the following new subclause immediately after subclause (3) —

- (4) The amount of the rates set under subsection (1) shall not exceed four per cent of the unimproved 'value of the rateable property.

CLAUSE 20

THAT clause 20 of the Bill be amended in —

- (a) subclause (2) by inserting the words 'and the Council of County Governors' immediately after the words 'the Cabinet Secretary'.
- (b) subclause (6) by deleting the words 'recommend to the Cabinet Secretary Ministry of Lands to further review before submission' and inserting therefor the word 'submit'.

CLAUSE 29

THAT clause 29 of the Bill be amended in subclause (1) by deleting the word 'five' appearing immediately after the words 'undertaken in every' and inserting therefor the word 'ten'.

Signature

CLAUSE 30

THAT clause 30 of the Bill be amended by deleting — (a)

subclause (4);

(b) sub clause (5); and (c)
subclause (6).

CLAUSE 32

THAT clause 32 of the Bill be amended -

(a) in subclause (3) by inserting the words 'of preparing a report under subsection (4)' immediately after the words 'Valuer for purposes';

(b) in subclause (6) by deleting the word 'tabling' appearing immediately after the words 'county assembly for' and inserting therefor the word 'approval'.

(c) by inserting the following new subclauses immediately after subclause (6) —

(7) The County Assembly shall, within sixty (60) sitting days of submission under subsection (6), by resolution approve or reject the draft valuation roll or draft supplementary valuation roll.

(8) Where the County Assembly fails to make a resolution within the period under subsection (7), the draft valuation roll or draft supplementary valuation roll shall be deemed to have been approved.

CLAUSE 34

THAT clause 34 of the Bill be amended in subclause (6) by deleting the word 'may' appearing immediately after the words 'a county government' and inserting therefor the word "shall".

CLAUSE 56

THAT clause 56 of the Bill be amended in —

(a) subclause (1) by deleting the word 'may' appearing immediately after the words 'The Cabinet Secretary' and inserting therefor the words 'shall, in consultation with the Council of County Governors, '

(b) subclause (2) by deleting the word 'may', appearing immediately after the words "the Cabinet Secretary" and inserting therefor the words "shall, in consultation with the Council of County Governors,".

(c) subclause (2) by inserting the following new paragraph immediately after paragraph (a)

(aa) the technological systems to be used in the preparation and implementation of the valuation roll or the supplementary valuation roll.

NEW CLAUSE 24A

THAT the Bill be amended by inserting the following new clauses immediately after clause 24 -

Signature

Chief Government Valuer 24A.

- (1) There shall be a Chief Government Valuer who shall be the principal advisor to the National Government and County governments on all matters relating to valuation
- (2) The Chief Government Valuer shall be appointed by the Public Service Commission through a competitive recruitment process

Qualification of the Chief Government Valuer.

- 24B. (1) A person is qualified for appointment as the Chief Government Valuer if that person —
- (a) is a citizen of Kenya;
 - (b) has a minimum of a Bachelor's degree from a university recognized in Kenya in —
 - (i) land economics;
 - (ii) real estate; or;
 - (iii) any other relevant field;
 - (c) has at least fifteen years' experience in the valuation practice;
 - (d) is a full member of the Institution of Surveyors of Kenya (Chapter on Valuation) and in good standing; and
 - (e) meets the requirements of Chapter Six of the Constitution.

NEW CLAUSE 30A.

THAT the Bill be amended by inserting the following new Clause immediately after clause 30—
Supplementary Valuation Roll 30A.

- (1) The county government shall, in preparing a valuation roll, rely on data or information that was used in the preparation of the valuation roll to assign values to be adopted on the properties contained in a supplementary valuation roll.
- (2) A supplementary valuation roll shall include only those alterations and additions to the valuation roll which are permitted by this section.

Signature

(3) The draft supplementary valuation roll shall take into account —

- (a) rateable property omitted from valuation;
- (b) new rateable property;
- (c) rateable property which is subdivided or consolidated with other rateable property; and,
- (d) re-categorization of the rate on the change of use of the rateable property.

CLAUSE 2

THAT clause 2 of the Bill be amended by deleting —

- (a) the definition of the term 'occupier' and inserting therefor the following new definition

"occupier" means, in relation to rateable property, a person who is in physical possession of premises, or a person who has control over the premises, where the rateable owner is unknown;

- (b) the definition of the term 'valuation roll' and inserting therefor the following new definition—

"valuation roll" means a roll prepared in accordance with this Act;

- (c) the definition of 'Chief Government Valuer' and inserting the following new definition

"Chief Government Valuer" means a valuer appointed under section 24A.

Signature