

**ELGEYO/MARAKWET COUNTY**

**EMERGENCY FUND BILL, 2016**

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# Elgeyo/Marakwet County Emergency Fund Bill, 2016

## THE ELGEYO/MARAKWET COUNTY EMERGENCY FUND BILL, 2016

### A Bill for-

**AN ACT** of the County Assembly of Elgeyo/Marakwet to provide for the establishment of an Emergency Fund and for matters incidental thereto and connected therewith

**ENACTED** by the County Assembly of Elgeyo/Marakwet, as follows—

	<b>PART 1-PRELIMINARY</b>
Citation and commencement	1. This Act may be cited as the Elgeyo/Marakwet County Emergency Fund Act, 2016 and shall come into operation on the date of publication in the Kenya Gazette.
Interpretation	2. In this Act, unless the context otherwise requires- "appropriation " means funds provides for the supply of public services; "chief officer" means the chief officer in charge of finance an economic planning "emergency" means an urgent and unforeseen event which threatens or causes damage to human life, welfare or to the environment; " executive member" means the County Executive Committee Member in charge of finance and economic planning; "fund" means the County Emergency Fund established under section 4 of this Act; and "financial year" means the period of twelve months ending on thirtieth day of June.
Object of the Act	3. The object of this Act is to ensure that the Emergency Fund is managed and operated by the County Government as contemplated by Article 110 of the Constitution of Kenya, 2010 as well as per Section 110, 111,112,113,114 & 115 of The Public Finance Management Act 2012.
	<b>PART II- ESTABLISHMENT AND ADMINISTRATION OF THE FUND</b>
Establishment of the County Emergency Fund	4. (1) There is established a Fund to be known as the Elgeyo/Marakwet County Emergency Fund.

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	<p>(2) The Fund shall consist of –</p> <p style="padding-left: 40px;">(a) monies appropriated by the County Assembly; and</p> <p style="padding-left: 40px;">(b) grants and donations made into the Fund.</p> <p>(3) The County Assembly shall, in appropriating monies under subsection (2)(a) in each financial year, ensure that the monies contained in the Fund shall not exceed two per cent of the total County Government's revenues as shown in the County's audited financial statements for the previous financial year except for the first year.</p>
Purpose of the Fund	5. The purpose of the Fund is to enable payments to be made in respect of the County when an urgent and unforeseen need for expenditure arises for which there is no specific legislative authority.
Officer administering the fund	<p>6. (1) The Chief officer shall be responsible for administering the Fund in accordance with a framework and criteria approved by the County Assembly.</p> <p>(2) The chief officer shall open and maintain a separate account into which all money appropriated to that Fund shall be paid.</p>
Powers of the County chief officer	<p>7. (1) The chief officer may make payments from the Fund only if satisfied that—</p> <p style="padding-left: 40px;">(a) there is an urgent and unforeseen need for the expenditure for which there is no legislative authority and shall be in accordance with operational guidelines made under regulations approved by the County Assembly and the law relating to disaster management; and</p> <p style="padding-left: 40px;">(b) it is for the public interest; and</p> <p style="padding-left: 40px;">(c) an event has caused a damage, loss, hardship or suffering to residents of the County or threatens to damage the environment and the event is limited to the County.</p> <p>(2) For the purposes of subsection (1)-</p> <p style="padding-left: 40px;">(a) there is an urgent and unforeseen need for expenditure if, in the opinion of the Executive Member —</p> <p style="padding-left: 80px;">(i) payment cannot be delayed until the next financial year without harming the general' public interest of the County;</p> <p style="padding-left: 80px;">(ii) the payment is necessary to alleviate the damage, loss, hardship or suffering which may be directly caused by the event; and</p> <p style="padding-left: 40px;">(b) need for expenditure is unforeseen and has not been provided for in an appropriation law made by the County Assembly for the current</p>

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	financial year.
Limitation on power of the chief officer	8. The chief officer shall not, during a financial year, make a payment under section 7 if the payment exceeds the appropriated amount as stipulated in Section 4 (3)
Accruals	9. All receipts, earnings and accruals to the Fund and the balance of the Fund at the close of the financial year shall be retained by the Fund for the purpose for which it is established
Approval of County Assembly	<p>10. (1) The Executive Member shall seek approval from the County Assembly in writing within two months after payment is made out of the Fund.</p> <p>(2) If the County Assembly is not sitting during the period referred to in subsection (1) and the County Executive Committee Member has not sought the approval of the County Assembly before the end of that period, the County Executive Committee Member shall seek the approval of the County Assembly for the payment within fourteen days after it next sitting.</p> <p>(3) As soon as practicable after the County Assembly has approved the payment, the Executive Member shall arrange for an Appropriation Bill to be introduced into the County Assembly for the appropriation of the money paid and for the replenishment of the Fund to the extent of the amount of the payment</p>
Financial Statement	<p>11. (1) Within three months after the end of each financial year, the County Treasury shall prepare and submit to the Auditor General and County Assembly a financial statement in respect of the Fund for that year.</p> <p>(2) The financial statement prepared under subsection (1) shall include the following information-</p> <p>(a) the date and the amount of each payment;</p> <p>(b) the person to whom the payment was made;</p> <p>(c) the purpose for which the payment was made;</p> <p>(d) whether the person to whom the payment was made spent the money for that purpose and a statement made to that effect;</p> <p>(e) if the person to whom the payment has been made has not spent the money for that purpose, a statement specifying the reasons for not having done so: and</p> <p>(f) a statement indicating how the payment conforms to section 7 of this Act, the legislation or the policy of the County relating to disaster</p>

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	management
	<b>PART III-MISCELLANEOUS</b>
Regulations	12. The County Executive Committee Member may make regulations for the better carrying out of the provisions of this Act.

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## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of Objects and Reasons for the Elgeyo/Marakwet/County Emergency Fund Bill, of 2016**

The Bill seeks to establish a legal framework for the management and operationalization of the emergency fund as contemplated by Article 110 of the Constitution of Kenya, 2010 as well as per Section 110, 111,112,113,114 & 115 of The Public Finance Management Act 2012

### **Statement on the delegation of powers and limitation of fundamental rights and freedoms**

This Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

### **Statement of how the Bill concerns County Government**

The Amendment Bill concerns County government in terms of Article 110 of the Constitution of Kenya, 2010 as well as per Section 110, 111,112,113,114 & 115 of The Public Finance Management Act 2012

### **Statement that the Bill a Money Bill within the meaning of Article 114 of the Constitution**

This Bill is a money Bill within the meaning of Article 114 of the Constitution

Faith Chepkairor

Chairperson committee on Finance and Economic Planning