MARSABIT COUNTY LIVESTOCK TRADE AND MARKETS BILL, 2016

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A Bill for

AN ACT of the County Assembly of Marsabit to provide for the promotion of livestock trade and markets and for connected purposes.

ENACTED by the County Assembly of Marsabit as follows—

PART I– PRELIMINARY

1. This Act shall be cited as the Marsabit County Livestock Trade and Markets Act, 2016 and shall come into operation upon publication in the Kenya Gazette.

2. In this Act unless the context otherwise requires —

   “animal health inspector” means a person assigned the function by the Chief Officer of the Department of Livestock for the purposes of this Act;

   “auctioneer” means a person licensed under Section 10 of the Auctioneers Act, Cap 526;

   “cess” means local levy chargeable in the day to day activities in a livestock market;

   “county executive committee member” means a County Executive Committee Member in-charge of matters related to livestock;

   “electronic trading platform” means a platform for conducting trading in livestock through electronic media;

   “fund” means Livestock Sector Trust Fund established under Section 32 of this Act;

   “livestock” means all domestic animals including cattle, camels, goats, sheep, donkeys, pigs, poultry and rabbits;

   “livestock market” means a place gazetted as such by the County Executive Committee Member which includes but not limited to perimeter fence, holding pens for each category of livestock species, loading rumps, water troughs, sanitation blocks, auctioneer platform, office, stalls, quarantine area and incinerator;

   “livestock market supervisor” means a person from the livestock department seconded by the Chief Officer of Department of Livestock to supervise the daily operations of the market;
“market operator” means an individual, company, co-operative society, community group or entity registered under the laws of Kenya and licensed under Section 10 of this Act;

“private entity” any entity other than the county government or an agent of the county government;

“stall” means any structure used for the purpose of trading within the livestock market;

“Livestock Market Technical Committee” means the Livestock Market Technical Committee established under the provisions of this Act;

“unfit livestock” includes all livestock declared as such by the Animal Health Inspector.

**Objects and Purpose**

3. The purpose and objects of the Act shall be —
   1) To establish livestock markets in the County;
   2) To promote livestock trade in the County;
   3) To provide for the administration and management of the livestock markets in the County;
   4) To promote effective and efficient operation of livestock markets; and
   5) To provide linkages between livestock markets to other supportive business enterprises and services.

**PART II—ESTABLISHMENT OF LIVESTOCK MARKETS**

4. (1) The County Executive Committee Member may by notification, gazette a ‘place’ to be a livestock market for purposes of trading and marketing of livestock, expressly or impliedly in physical, electronic or other such mode under this Act.

(2) All livestock markets shall conform to the standards set out in the rules and regulations under this Act.

(3) The County Government may by notification grant a license to a private entity or individuals after examination of the credentials, experience and proposed plan to establish a market in a notified area for the purposes of this Act with such facilities and with such capital investment as specified by the County Government from time to time; Provided the license so granted under this sub-section shall be suspended or cancelled for violation of any provisions of the Act.
(4) The County may facilitate the establishment of livestock markets within the County.

5. The County may delegate the operation and management of the Livestock Markets to a licensed Market Operator.

6. The Market Operators shall in consultation with the Department of Livestock, ensure community participation in the management of the market.

7. The Market Operator shall —
   (1) Manage the markets on a day to day basis;
   (2) Ensure regular repairs and maintenance of the market infrastructure;
   (3) Safeguard all market infrastructure;
   (4) Ensure transparency in revenue collection (fees and levies); during the market days and the management of such levies;
   (5) Keep all relevant livestock market information as required;
   (6) Coordinate with the livestock market supervisor to support the settling of grievances and arbitration between different actors in the market; and
   (7) Ensure high standards of safety and hygiene in accordance to the law or as maybe directed by the Animal Health Inspector from time to time.

8. The livestock market operator shall keep and maintain a livestock market register to provide data and information as prescribed in the rules and regulations under this Act. A copy of the data and information shall be submitted to the Livestock Market Supervisor and the County Livestock Marketing Council as required.

9. (1) The County may construct or cause the construction of stalls in the livestock markets.
   (2) Where the livestock market is privately owned, the owner may construct the stalls.

PART III- LICENSING

10. A person shall not hold, operate or manage a livestock market in the County without a valid license issued pursuant to the provisions of this Act.
(2) The application for a license shall be in the prescribed form as described in the rules and regulations and shall be issued under the seal of the Marsabit County Government.

(3) The License shall be valid for one (1) year and may thereafter be renewed.

11. The County Executive Committee Member may refuse to renew a license or may suspend or revoke a license on any one or more of the following grounds—

   (1) Violation of any provision of this Act, order, or regulation issued hereunder;
   (2) Selling or exchanging stolen or mortgaged livestock without authority from the owner or mortgage;
   (3) Failing to meet any prescribed measures on sanitation of the market, housing, holding, and feeding of livestock;
   (4) In the case of livestock weighed on the licensee’s scales and sold by weight, knowingly quoting incorrect weights or failing to have his scales regularly inspected and tested;
   (5) Failing to pay for livestock after sale;
   (6) Being insolvent as determined by the Court; and
   (7) Poor or non-performance of duties and obligations as agreed.

12. The County Executive Committee Member in consultation with the committee shall appoint a caretaker committee to operate and manage a market during the period of suspension or revocation of a market operator’s license.

PART IV-ADMINISTRATION OF THE LIVESTOCK MARKETS

Establishment of the Marsabit County Livestock Markets Technical Committee

13. (1) There is established Marsabit County Livestock Markets Technical Committee.
   (2) The Committee shall be reconstituted every three years
14. The County Executive Committee member in consultation with County Livestock Marketing Council and other stakeholders shall appoint the following members to the Committee —

(1) The Chief Officer incharge of livestock department who shall be the chair of the Committee;
(2) The Chief Officer for finance and economic planning or a representative;
(3) The County Director of Livestock who shall be the Secretary of the Committee;
(4) The County Director of Veterinary Services or a representative;
(5) The County Director of Trade or a representative;
(6) The Chairperson of the County Livestock Marketing Council;
(7) Four representatives nominated by the local community and appointed by the County Executive Committee Member. Community Representatives appointed under this clause shall serve for a maximum of one term of three years each and
(8) Two representatives appointed by the County Executive Committee member from other stakeholders with knowledge of livestock matters and who shall serve for a term of three years.
(9) Ensure that not more than two thirds of the composition of this committee shall be of the same gender.

15. The Committee shall —

(1) Oversee the management of the livestock markets in the county;
(2) Advise on the establishment of new markets and upgrading of existing ones;
(3) Advise the County Executive Committee member on how to set livestock market days for each livestock market within the County;
(4) Ensure that only licensed livestock market operators operate livestock markets;
(5) Advise the Department of Livestock and the stakeholders on best practices on livestock markets and trade;
(6) Monitor and report on the performance of the Market Operators to the County Executive Committee member on a regular basis;
(7) Jointly with other partners, build the capacities of the local communities to participate in livestock trade;
(8) Put in place mechanisms to ensure sharing of benefits from the markets with local communities;
(9) In liaison with livestock and veterinary department, undertake regular education of the local communities on good practice for livestock production and trade;
(10) Ensure that livestock markets conform with the requirements of this Act;
(11) Prepare and publicise half yearly livestock trade and markets performance reports to all stakeholders in the county; and
(12) Appoint a Livestock Market Supervisor;
16. The County Executive Committee Member may dissolve the Marsabit County Livestock Market Technical Committee.

17. The Animal Health Inspector shall—
   (1) Enforce the rules to protect livestock during transportation and trade;
   (2) Ensure that the health and safety measures described in the Act are complied with; and
   (3) Ensure that the livestock in the market meet the required market standards.

18. The Animal Health Inspectors shall have the power to—
   (1) Certify animals for sale in the market;
   (2) Enter and inspect any livestock market for the purpose of ensuring compliance with this Act; and
   (3) Treat or quarantine any sick livestock as per the regulations.

19. The Livestock Market Supervisor shall—
   (1) Seize and confiscate any documents suspected to be forged or fraudulently obtained;
   (2) Supervise the collection and safe keeping of livestock market data and information;
   (3) Recommend to the Marsabit County Livestock Market Technical Committee to make decisions from time to time;
   (4) Recommend routine repairs and maintenance of the market infrastructure;
   (5) Check and ensure accuracy and transparency in revenue collection and records;
   (6) Provide regular reports to Marsabit County Livestock Market Technical Committee; and
   (7) Settle grievances and arbitrations between different actors in the market.

20. (1) An Inspector or Livestock Market Supervisor may enter and search a livestock market without a search warrant where he has reason to believe that the owner of the livestock market is in contravention with the provision of this Act or regulation.
   (2) Subject to sub-section (1), the Inspector may seize and confiscate any records or sick, stolen or abandoned livestock found in the livestock market.
   (3) The Inspector shall forward the records and livestock seized and confiscated as per sub-section (2) to the Livestock Market Supervisor for further action.
PART V – TRANSPORTATION AND WELFARE OF LIVESTOCK

Transportation of livestock

21. Livestock shall be transported in a way that will not cause injury or suffering to them, taking the following factors into account —
   (1) Ensure that animals are fit to travel;
   (2) Ensure that loading and offloading facilities are constructed and maintained;
   (3) Ensure that those handling livestock do not use violence or any methods likely to cause fear, injury or suffering;
   (4) Provide sufficient floor, space and height allowance; and
   (5) Facilitate the provision of water, feed and rest as needed.

Collection and holdinggrounds for livestock

22. (1) Collection and aggregation centres in the proximity of the production areas may be set up by a person with infrastructure, as may be prescribed, with linkages to retail chain, or processing/export unit/premises, or any other such unit/premises
   (2) No livestock trading will be undertaken in the grounds established under Sub-section (1) above.

Movement permit

23. Livestock from the markets shall be moved out of the County upon issuance of the relevant permit.

Unfit Livestock

24. No person shall permit an unfit animal to be exposed for sale in a livestock market.

Handling of livestock

25. No person shall handle a livestock in a livestock market in a way that may cause injury or suffering.

Feeding and Watering of Livestock

26. It shall be the duty of the owner of a livestock which is kept in a livestock market from one day to the next to ensure that the animal is provided with adequate quantity of suitable food and water at regular intervals.

PART VI – SALE AND AUCTION OF LIVESTOCK

Sale of livestock

27. (1) All livestock shall be traded in the designated livestock market.
   (2) Any person who contravenes the provisions of sub-section (1) by selling livestock within the radius of 5 kilometers commits an offence and shall on conviction be liable to a fine not exceeding Kenya Shillings twenty thousand or a term of one-month imprisonment or both.

Types of sale

28. Sale of livestock at the livestock market shall be conducted either by—
   (1) Regular sale where the price of livestock shall be determined by the prevailing price;
   (2) Sale by auction.
(3) Electronic trading; or
(4) Live weight determined by a weighing scale.

29. Where any livestock is put up for sale by auction —
(1) the date, time and place of every sale shall be advertised in the prescribed manner and such sale shall take place on the date, at the time and at the place so advertised;
(2) in lots, each lot shall automatically be deemed to be the subject of a separate contract of sale;
(3) the particulars or conditions of any sale including the conditions whether the sale is subject to a reserve or to that effect, then it shall not be lawful for the seller or any person employed by him to bid at such sale or for the auctioneer to take knowingly any such bid,

Provided that if it is stated that the sale shall be subject to a right for the seller to bid, then it shall be lawful for the seller or for any person acting on his behalf to bid at such auction.

(2) if it is stated that the sale will be subject to a reserve price as regards any one or more lots, it shall be lawful for the seller or any person acting on his behalf to give one bid for each such lot and no more.
(3) if the seller or any person acting on his behalf bids at any sale contrary to any of the provisions of this section, any purchaser may refuse to fulfill his purchase; provided that the highest bona fide bidder shall be entitled, if he shall so elect, to have the property at the price offered by him.
(4) No auctioneer shall make a bid either on behalf of himself or as an agent of any person unless on making such bid, he announces that it is his bid.
(5) A bidder may retract his bid at any time before the sale is complete
(6) A person who, knowingly—
(a) receives or makes any bid contrary to the provisions of this Section; or
(b) makes a bid which he cannot honour or is fraudulent, or is intended to avoid a valid sale which is subject to the bid, commits an offence.
(7) Where a person convicted of an offence under this section is a licensed auctioneer, he shall, in addition to any other penalty imposed, be liable to having his license revoked.

30. (1) No person or entity shall establish and run any electronic trading platform for trading in livestock without obtaining a license under this Section.
(2) Save as provided in Section 30, sub-section (1), the County Government or its agencies may, however, establish and run an e-trading platform for trading in livestock.

(3) In order to evolve a unified Integrated County Livestock Market Information System and to integrate various e-platforms, the applications in the e-platform(s) should be interoperable as per specifications and standards laid down by the County Government.

31. The County Executive Committee Member shall make regulations for sale of livestock under Section 28 (1) and (4).

**PART VII - FINANCIAL PROVISIONS**

32. There is established a livestock sector financing institution to be known as the Livestock Sector Trust Fund.

33. The object of the Fund is to assist in financing the sustainable development of common livestock production and marketing infrastructure, skill development, training, research and pledge financing and such other activities as will aid in creating an efficient livestock trade in the County.

34. (1) The powers and functions of the Fund shall be exercised and performed under the direction of a Board of Trustees consisting of a chairperson and four other members recruited in accordance with the rules and regulations from time to time appointed and holding office under a trust deed.

(2) The rules and regulations shall have effect with respect to the membership and procedure of the Board of Trustees of the Fund.

35. The powers and functions of the Board of Trustees shall be to—

1. Manage the resources of the Fund;
2. Implement measures to ensure the efficient and equitable sharing of the resources of the Fund;
3. Receive grants for onward lending;
4. Monitor the implementation of livestock related projects financed from the Fund;
5. Maintain and make public available information on the livestock related projects financed and impact of such projects;
(6) Establish and manage subsidiary funds as may be necessary for sustainable financing towards management of livestock related matters; and
(7) Mobilize additional resources to support the financing of livestock sector in Marsabit County

Revenue Sharing

36. The revenue collected in the market shall be shared as follows:
   (1) The Community will receive 40% of the total revenue collected from the market;
   (2) The County government will receive 60% of the total revenue collected from the market.

Revenue Collection

37. All the overhead costs incurred in the running of the market shall be shared between the community and the County government in the same proportions as revenue collected in Section 36(1) and (2) above.

PART VIII—GENERAL PROVISIONS

General Penalty

38. Any person who contravenes the provisions of this Act for which no other penalty is provided commits an offence and shall on conviction be liable to a fine not exceeding Fifty Thousand Shillings or to imprisonment for a term not exceeding three months or both.

Regulations

39. The County Executive CommitteeMember may make regulations with the approval of County Assembly generally for the purpose of carrying out this Act.
MEMORANDUM OF OBJECTS AND REASONS

The Bill seeks to give effect to provide for the promotion of livestock trade and markets in the County.

It seeks to implement the functions of the County Government in relation to Livestock and specifically the livestock trade and markets.

STATEMENT ON CONSTITUTIONALITY AND CONFLICT OF LAWS

The Bill does not contravene any of the provisions of the Constitution and is not ultra vires to any of the provisions of any national law relating to agriculture. In case of any conflict between the Bill and any National laws, the provisions of Article 191 of the Constitution shall take effect.

Dated xxxxxxx

HON. ELEMA DIBA
CHAIRPERSON, AGRICULTURE, LIVESTOCK AND FISHERIES