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No. 6 of 2025

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THE TANA RIVER COUNTY HEALTH IMPROVEMENT FINANCING ACT, 2025

AN ACT of the County Assembly of Tana River to provide for County Health Facilities Improvement Financing and management and administration of the improvement financing and for connected purposes

ENACTED by the County Assembly of Tana River, as follows —

PART I — PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Tana River County Health Improvement Financing Act, 2025 and shall come into force on the date of publication in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires—

"AIE" means Authority to Incur Expenditure;

"Chief Officer" means the chief officer responsible for matters related to Health in the County;

"County Executive Committee Member" means the County Executive Committee Member responsible for Health;

"County Health Management Team" means the team established by section 18 of the Tana River County Health Services Act;

"County Health Services Management Board" means the Board established by section 5 of the Tana River County Health Services Act;

"Director of Medical Services" means the County Director of Medical Services appointed by the County Public Service Board;

"Dispensary" means a health facility at level 2;

"Entity" means County Department of Health or health facility or public health unit declared to be a county government entity under section 5(1) of the Public Finance Management Act (2012);

"Exemptions" means exemptions in accordance to national policies;

"Expenditure Committee" means a Committee constituted by the Chief Officer for Health to receive, interrogate and approve the plans and budgets from health facilities and public health offices;

"Facility Committee" means the health center and dispensary facility committee as currently appointed and constituted;

"Health center" means a health facility at level 3;

"Health facility" includes County and Sub-county hospitals, health centers, dispensaries and any other public health entity registered to provide health services;

"Health Facility Committee" means the existing and currently constituted administrative arm that manages health facilities;

"Health Facility Improvement Financing" means revenue collected, retained, planned for and used by a hospital, health centre or dispensary, and public health office as user fees paid to defray costs of running and maintaining health entities;

"Hospital" includes County and Sub-county health facilities at levels 5 and 4 respectively;

"Hospital Committee" means the appointed and gazetted committees as currently constituted;

"Hospital Management Committee" means the administrative arm that manages hospitals;

"Hospital Management Team" means the hospital management teams established by section 22 of the Tana River County Health Services Act;

"Operational and management costs'' includes planned and budgeted activities by county health facilities.

"Primary Health Facility Committee" means the Primary Health Facility Committee established by section 10 of the Tana River County Health Services Act;

"Public Health Services" includes all public health services that are of promotive and preventive nature being delivered at the community level;

"Schemes" means a proposed benefit package (to cover inpatient and out-patient services to a specific group/population offered under the National Health Insurance Fund (NHIF);

"Waiver" means a release from payment after meeting a certain criterion set in regulations by the County Executive Committee Member.

Objects and purposes of the Act

3. The objects and purposes of this Act are to—

(a) give effect to section 5 (1) of the Public Finance Management Act by declaring county health facilities as entities;

(b) provide a framework in line with section 109 (2) (b) of the Public Finance Management Act, 2012 to allow the Tana River County health facilities to retain revenue collected for defraying operational and maintenance costs; and

(c) provide for appropriate governance structures and accountability measures to support the County Health Improvement Financing as provided for in the Public Finance Management Act (2012).

Principles of the County Health Facility Improvement Financing

4. The following principles shall guide the implementation of this Act—

(a) health services shall be available, accessible, acceptable, affordable and of good quality and standard;

(b) health facilities, public health units and community health services shall be well funded to offer quality health care to all;

(c) accountability, transparency and integrity shall be upheld, observed, promoted and protected in the collection, management and use of revenue; and

(d) that revenue generated at health entities will be considered to be additional to the budgets appropriated to health entities by the County Assembly of Tana River and not a substitute.

Application of the Act

5. This Act applies to the following county entities—

(a) County referral hospitals;

(b) Sub-county hospitals;

(c) Health centers;

(d) Dispensaries;

(e) Public Health services; and

(f) any other public health entities as may be conferred on them as such by this Act or any other legislation.

PART II —COUNTY HEALTH FACILITY IMPROVEMENT FINANCING

Establishment of the County Health Facility Improvement Financing

6. There shall be established the County Health facility Improvement Financing.

Functions of the Health Facility Improvement Financing

7. The Health Facility Improvement Financing shall—

(a) enable the County entities to collect and retain revenue paid as user fees in order to defray costs of running the respective county entity;

(b) finance the respective entities' operational and management costs;

(c) provide readily available financial resources for optimal operations of the County entities all year round;

(d) improve daily entities operations and promote improved access to health services to all county residents;

(e) establish the County health entities as a procurement entity in line with the Public Procurement and Asset Disposal Act of 2015 and the Public Procurement and Asset Disposal Regulations of 2020;

(f) increase, where applicable, the accessibility and predictability of finances for procurement of essential products, commodities and technologies;

(g) enable county entities to budget and utilize collected revenue in line with the Public Finance Management Act, 2012;

(h) support community level health services.

Sources of the Health Facility Improvement Financing

8. The Health Facility Improvement Financing shall consist of—

(a) monies received as user fees and charges;

(b) monies received as capitation or reimbursement for services prescribed in the National Health Insurance Schemes Act and or from any other insurance provider;

(c) income received through licensing or user fee in relation to any function or activity under public or environmental health department;

(d) voluntary contributions from public officers and private persons;

(e) grants and donations from other County public entities such as the municipalities and water companies;

(f) grants and donations from government parastatals, non-state entities, public and private companies and businesses;

(g) in-kind donations from well-wishers such as medical equipment and supplies, pharmaceutical and non-pharmaceutical supplies and relief foods;

(h) monies appropriated by the County Assembly; or

(i) any other source approved by the County Treasury.

Retention of the Health Facility Improvement Financing

9. Upon commencement of this Act, the following County health entities shall be entitled to collect, retain all and use the Health Improvement Financing—

(a) County referral hospitals- level 5;

(b) Sub-county hospitals- level 4;

(c) Health centres- level 3;

(d) Dispensaries- level 2;

(e) Public health office;

(f) any other public health entities as may be conferred on them as such by this Act or any other legislation.

Limitation of the Health Facility Improvement Financing

10. Any payments made in respect of expenses incurred in carrying out the functions of this Act shall be in pursuance of the objects and purpose for which the Health Improvement Financing is established.

PART III—MANAGEMENT AND ADMINISTRATION OF THE COUNTY HEALTH FACILITY IMPROVEMENT FINANCING

Role of the County Executive Committee Member

11. (1) The County Executive Committee Member shall provide leadership and policy direction in the overall administration of the Fund.

(2) For the avoidance of doubt, the County Executive Committee Member shall perform the following other functions—

(a) nominate, gazette and competitively appoint members of the Board

(b) (b) provide guidance for the election of members of the facility management committees;

(c) publish guidelines on fund allocation formulae for distribution(to(hospitals, public health facilities and public health functions;

(d) make regulations to give effect to the objects of the Fund;

(e) make bi-annual reports to the County Assembly;

(f)perform any other function assigned to him/her under this Act or any other written law.

Role of the Chief Officer

12. The Chief Officer as the accounting officer shall—

(a) ensure annual work plans and budgets from county health entities are reflected in the County annual budget;

(b) set up a standing expenditure committee drawn from County Health Management Team to review and advise on the Health Improvement Financing budgets by 10th of the first month at the beginning of every quarter;

(c) issue AIEs to all facility in-charges and public health officers for purposes of spending the Health Improvement Financing;

(d) approve all county appropriation for county entities;

(e) review and forward monthly, quarterly and annual financial reports to County Treasury and the County Assembly;

(f) receive and review performance reports;

(g) monitor the implementation of the Health Improvement Financing in the County health entities;

(h) set performance metrics to guide to track the performance of county health entities and related purposes;

(i) set and communicate budget ceilings on amounts to be allocated to County health entities annually.

Composition and Role of the Hospital Management Team

13. The Hospitals management teams shall, in relation to Health Improvement Financing—

(a) prepare and present the annual hospital work plan and budget;

(b) prepare and present the hospital quarterly budgets;

(c) prepare monthly, quarterly and annual financial reports;

(d) monitor the performance target of the Health Improvement Financing;

(e) monitor the achievement of the health service delivery indicators

(f) prepare and present a performance report for (d) and (e) above as per the prescribed format.

(g) undertake resource mobilization for the hospital;

(h) ensure efficient and effective utilization of resource paid into the Health Improvement Financing;

(i) ensure internal audits are periodically undertaken to mitigate financial risks;

(j) ensure external audits are undertaken on a timely basis.

Role of the Hospital Management Board

14. The County Hospital Management Board shall, in relation to the Health Facility Improvement Financing—

(a) consider and submit for approval to the Chief Officer for health annual work plans and budgets;

(b) consider and submit for approval to the Chief Officer the hospitals quarterly budgets;

(c) ensure the quarterly implementation plans and budgets are based on available resources;

(d) formulate strategies on resource mobilization for the hospitals;

(e) monitor the utilization of Health Improvement Financing;

(f) approve the facility performance reports referred in section 12 (2) (f) and forward to the Chief Officer;

(g) take corrective action in relation to implementation challenges identified that hinder efficient collection and absorption of funds;

(h) oversight all financial procedures and reporting requirements are met by the hospital management teams and conform to the Public Finance Management Act (2012) and related regulations;

(i) ensure strict adherence to procurement rules as prescribed in the Public Procurement and Asset Disposal Act;

(j) make policy recommendations on the use of the Health Improvement Financing;

(k) guide the hospital fees, charges, unit costs, exemptions and waivers as prescribed by the County Executive Committee member for health;

(l) receive the audit report and respond to management queries;

(m) ensure public awareness on administration of the county Health Improvement Financing through public participation during annual planning and budgeting;

(n) liaison between health facility management team and community to strengthen the delivery of quality health services.

Role of the Health Centres and Dispensaries HMT

15. Primary Health Facility Management Teams, in relation to Improvement Financing shall—

(a) prepare and present the annual work plan and budget;

(b) prepare and present the quarterly budgets;

(c) prepare monthly, quarterly and annual financial reports;

(d) monitor the performance target of the Health Improvement Financing;

(e) monitor the achievement of the health service delivery indicators;

(f) (f) prepare and present a performance report for (d) and (e) above;

(g) undertake resource mobilization for health service provision in levels 1, 2 and 3;

(h) ensure efficient and effective utilization of resource paid into the Health Improvement Financing; and

(i) support external audits.

Role of Primary Health Facility Management Committee

16. (1) The Primary Health Facility Management Committee shall be appointed and gazetted by the County Executive Committee Member.

(2) The Primary Health Facility Committee shall, in relation to the Health Improvement Financing—

(a) considers and submit for approval to the Chief Officer annual facility work plan and budgets;

(b) considers and submit for approval to the Chief Officer the facility quarterly budgets;

(c) ensure the quarterly implementation plans and budgets are based on available resources;

(d) monitor the utilization of Health Improvement Financing;

(e) approve the performance reports referred in section 14 (1) (f) and forward to the County Department of Health;

(f) take corrective action in relation to implementation challenges identified that hinder efficient absorption of funds;

(g) ensure all financial procedures and reporting requirements are met by the hospital management teams and conform to the County Public Finance Management Regulations;

(h) ensure strict adherence to procurement rules as prescribed in the Public Procurement and Asset Disposal Act;

(i) ensure public awareness on administration of the county Health Improvement Financing through public participation during annual planning and budgeting;

(j) receive the audit report; and

(k) liaison between health facility management team and community to strengthen delivery of quality health services.

Collections from level 4 and 5 Hospitals

17. (1) Revenues generated at Level 4 and 5 Hospitals shall be retained at 100%.

(2) Subject to approval by the County Assembly, the County health facilities shall impose such user charges for different health services provided by Health Service Unit.

(3) The person in-charge of levels 4 and 5 Hospitals may, upon investigation and for documented reasons, waive the user charges payable by a particular person.

(4) The County Executive Committee Member in consultation with hospital management Board may from time to time review the user charges.

Utilization of the facility Fund

18. (1) An Officer in-Charge of Hospital or Health Facility may utilize the Fund to—

(a) purchase medical supplies;

(b) maintain the Hospitals and Health Facilities;

(c) purchase Hospital equipment;

(d) hire temporary professionals or other staff for the Hospital or Health Facility;

(e) improve the capacity of staff to offer health services including training and continuous professional development;

(f) pay for basic administrative expenses; and

(g) undertake any other activity that is approved by the Hospital Board or Health Facility Committee.

(2) 25% of the revenue collected by level 4 and 5 Hospitals shall be used for development.

(3) Every Sub-county hospital shall give 10% of their quarterly revenue collections to the Sub-county Health Office for support of primary health care activities.

(4) The Tana River County Referral hospitals shall give 5% of their quarterly revenue collections to the County Health Management Team for support services.

(5) Tana River County Referral hospitals shall give 5% of their quarterly revenue collections to for the support of primary health care activities.

Collections from level 3 and 2 health facilities

19. (1) Level 2 and level 3 health facilities shall, with respect to the finances collected, retain 100%.

(2) 50% of the revenue collected by level 2 and 3 health facilities shall be used for development.

(3) 50% of the revenue collected by level 2 and 3 health facilities shall be used for level 1 support activities.

Collections from public health services

20. (1) County Public Health Unit shall, with respect to the finances collected, retain 100% to facilitate public health work within the Sub-county.

(2) Public health services will utilize 75% of the total collected revenues for its operations.

(3) 25% of the collected revenue shall be utilized by the Sub-county health management team for supportive supervision.

PART IV— FINANCIAL PROVISIONS

Bank account for the health Improvement Financing

21. (1) There shall be opened and operated a bank account for every entity into which all monies received for the Health Improvement Financing shall be paid.

(2) With respect to the hospitals, mandatory signatories to the bank accounts shall be the Hospital-In-Charge.

(3) With respect to the hospitals the second signatory shall either be the Hospital Administrator and/or the hospital accountant.

(4) With respect to the health centers and dispensaries, the mandatory signatory to the bank account shall be the Facility-in-Charge.

(5) With respect to the health centers and dispensaries the second signatory shall either be the Chair or the Treasurer of the Health Facility Management Committee.

Authority to Incur Expenditure (AIEs)

22. (1) The Chief Officer shall be the accounting officer.

(2) The user departments will identify their needs and submit their requests to the Health Facility Management Team.

(3) Costing of the requirements will be established and requests evaluated by the Health Facility Management Teams based on available funds/revenues.

(4) The Health Facility Management Team will determine the ceilings to allow respective departments share available resources.

(5) Departments will adjust their requirements according available resources.

(6) The Health Facility Management Team through the facility-in-charge will submit the proposed budget for consideration by the Hospital Board / Health Facility Management Committees.

(7) Upon consideration, of the proposed budgets, the Hospital Board / Health Facility Management Committee will approve the budgets with or without amendments as necessary, signed copies of the minutes will then be forwarded to the Chief Officer for the issuance of the AIEs.

Expenditure of the Health Improvement Financing

23. (1) Upon issuance of AIE to the health facility in charge, the user department shall raise vouchers for payment for services or procurement of commodities.

(2) The vouchers shall be prepared, verified, confirmed and preserved in accordance with the Public Finance Management Act, 2012 regulations.

(3) Where applicable, IFMIS shall be used as the primary accounting platform for the county health entities

(4) All County health entities shall not expend any finances without express authority to incur expenditures

(5) The Chief Officer for County Treasury in consultation with the Chief Officer provided in section 2 may appoint accountants for health centers and dispensaries for purposes of proper financial accounting and record keeping.

(6) The expenditure incurred by County health entities shall be on the basis of, and limited to, the available finances in the respective bank accounts and the authority to incur expenditure.

(7) County health entities shall be expected to file returns/account in the prescribed format for the preceding quarter to the office of the Chief Officer before a new AIE is issued.

Audits

24. The Health Improvement Financing shall be subjected to audits in accordance to the Public Audit Act, 2015.

Overdraft and continuity

25. (1) The Health Improvement Financing Accounts shall not be overdrawn.

(2) The Health Improvement Financing shall not lapse with the turn of a new financial year; but any residue of finances shall be captured in the following financial year budget and annual plans and rolled over.

Winding up of Health Improvement Financing

26. In circumstances when a county entity is closed and the Health Improvement Financing is to be wound up, the balances shall be swept to the County Revenue Fund and a certificate sent to the Accounting officer for the Department of Health

PART V—MISCELLANEOUS PROVISIONS

Transitional provisions

27. All gazetted members of the current Hospital Boards and Health Facility Management Committees shall continue to operate as per existing regulations.

Penalties

28. Penalties stipulated in the Public Finance Management Act, 2012 and its regulations and the Public Procurement and Asset Disposal Act, 2015 and its regulations and other written laws on misuse, misappropriation and other deviations shall apply.

Regulations

29. The County Executive Committee Member shall make regulations within sixty (60) days after the publication of this Act for the better carrying out of the provisions of this Act.

SCHEDULE

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEES AND BOARDS

1. The Facility Full Committees and Board shall have maximum of six meetings every year.

2. Notwithstanding the provisions of sub-paragraph (1), above, the Chairperson may, and upon requisition in writing by at least four members, shall convene a special meeting of the Board at any time for the transaction of the business of the Board or Committee.

3. A written notice of board meetings shall be issued at least fourteen days before the scheduled date of the meeting.

4. The quorum for the conduct of the business of the Board shall be half the normal membership of the Committee or Board plus one member including the Chairperson or the person presiding.

5. The Chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their members to preside, who shall with respect to that meeting and the business to be transacted thereat, have all the powers of the Chairperson.

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

7. (1) If a member is directly or indirectly interested in an outcome of any decision of the Board or other matter before the Board and is present at a meeting of the Board at which the matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

(2) A member of the Board shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member or employee of the Board.

(3) Where the Board becomes aware that a member has a conflict of interest in relation to any matter before the Board, the Board shall direct

the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the chairperson has a conflict of interest, he shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the board

(5) Upon the Board becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Board and the member with the conflict of interest shall not vote on this determination.

(6) Where the Board determines that the conflict is likely to interfere significantly with the member's proper and effective performance, the member shall resign unless the member has eliminated the conflict to the satisfaction of the Board within thirty days.

(7) The Board shall report to the department of Health services any determination by the Board that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Board.

(8) The annual report of the Board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.

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

(10) A member of the Board who fails to declare conflict of interest where such is the case commits an offence is guilty of misconduct.

8. The Board shall comply with the code of conduct governing public officers and provisions of Chapter Six of the Constitution of Kenya, 2010.

9. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.