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**THE HIGHER EDUCATION LOANS BOARD
(AMENDMENT) BILL, 2015**

A Bill for

**AN ACT of Parliament to amend the Higher
Education Loans Board Act**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Higher Education Loans Board (Amendment) Act, 2015.

Short title.

2. The Higher Education Loans Board Act (in this Act referred to as the principal Act) is amended in section 4 (1) by—

Amendment of section 4 of 213A.

(a) inserting the following new paragraph immediately after paragraph (i)—

(ia) two student representatives—

(i) one of whom shall be from a public university; and

(ii) one of whom shall be from a private university;

(b) inserting the following new sub-section immediately after subsection (2)—

“(2A) the members of the Board referred to in paragraph (ia) shall be elected by the student leaders on a rotational basis from the respective public and private universities and shall serve for a period not exceeding two years.

3. The principal Act is amended in section 13 by inserting the following new subsection immediately after subsection (1)—

Amendment of section 13 of 213A.

(1A) a student who is a minor and wishes to be considered for the grant of a higher education loan shall make an application through a parent or guardian.

(1B) where a student is granted a higher education loan under sub-section (2), the loan shall be transferred to the student’s name upon attaining the age of majority.

4. The principal Act is amended in section 14 by— Amendment of
section 14 of 213A.
- (a) inserting the following new subsections immediately after subsection (3)—
- (3A) The Board shall notify every applicant in writing whether the application for a higher education loan has been accepted or rejected.
- (3B) A student may appeal against a decision of the Board to reject his or her application for grant of a higher education loan, in writing addressed to the Secretary of the Board.
7. The principal Act is amended in section 15 by— Amendment of
section 15 of 213A.
- (a) inserting the following new subsection immediately after subsection (1)—
- (1A) Where within one year of completion of his studies a loanee has not secured a source of income, the loanee shall notify the Board in writing and the Board shall not levy penalty on the loan.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Higher Education Loans Board Act. It proposes to provide for student representation in the Higher Education Loans Board. Further, it is intended to allow minors to apply for a higher education loan through a parent or guardian.

The Bill also proposes to oblige the Board to notify applicants upon processing of their application and allow applicants to appeal for additional funds where necessary.

The Bill further proposes that loanees who have not secured a source of income within one year of graduation shall notify the Board in writing and the Board shall not levy penalty on the loan.

The Bill does not affect the functions of the county governments and is therefore not a Bill concerning counties for purposes of the Standing Orders.

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 5th March, 2015.

IRUNGU KANGATA,
Member of Parliament.

Section 4 of the principal Act which it is proposed to amend—

(1) The Board shall consist of—

- (a) a Chairman appointed by the President;
- (b) the Secretary to the Commission for Higher Education;
- (c) Permanent Secretary, Ministry of Education or his representative;
- (d) Permanent Secretary, Ministry of Finance or his representative;
- (e) the Chairman of the Vice-Chancellors Committee for Public
- (f) Universities;
- (g) a representative of the Vice-Chancellors or Principals of the Private Universities;
- (h) the Executive Director of the Federation of Kenya Employers;
- (i) the Chairman of the Kenya Bankers Association;
- (j) two other persons appointed by the Minister; and
- (k) such other persons, not more than three, as the Board may co-opt from time to time.

(2) The members of the Board referred to in paragraphs (e) to (h) shall be appointed by the Minister.

(3) The members of the Board other than *ex officio* members shall hold office for a period of five consecutive years and may be eligible for re-appointment.

(4) The office of a member of the Board shall fall vacant—

- (a) if not being an *ex officio* member, he submits his resignation in writing under his hand to the appointing authority through the Secretary;
- (b) if the Board is satisfied that such a member is by reason of his physical or mental infirmity unable to execute the functions of his office;
- (c) if he has been adjudged bankrupt by a competent court of law or has committed a criminal offence which directly or otherwise reflects adversely on his status as a member of the Board; or
- (d) upon his death.

(5) Where the office of a member becomes vacant under subsection (4), the Secretary shall forthwith notify the vacancy to the appointing authority for appropriate action.

Section 13 of the principal Act which it is proposed to amend—

(1) Every student wishing to be considered for the grant of a higher education loan shall make an application to the Board in the prescribed form.

(2) Every student who has been awarded a higher education loan shall be issued with a Loanee Identification Personal Account Number (L.I.P.A.) by the Board.

(3) Any students who—

(a) in filling a loan application form, knowingly makes any false statement, whether orally or in writing, relating to any matter affecting his request for a loan; or

(b) being required under paragraph (a) to answer any questions, furnish any information or particulars or produce any document or paper, neglects to do so without reasonable cause; or

(c) is granted a loan based on false information,

shall be guilty of an offence and in the case of paragraphs (a) and (b) be liable to a fine of not less than three thousand shillings or to imprisonment for a term of not less than six months and in the case of paragraph (c) to a fine of not less than thirty thousand shillings or to imprisonment for a term of not less than three years.

Section 14 of the principal Act which it is proposed to amend—

(1) The Board may—

(a) accept or reject any application for a loan;

(b) grant a loan to any student and in so granting impose conditions, demand security and require repayment in instalments at such times and within such periods as the Board deems fit:

Provided that and subject to the provisions of this section the Board may upon the request by any student to whom a loan has been granted at any time vary—

(i) the condition subject to which the loan was made;

(ii) any security given in relation to the loan;

(iii) any of the terms of repayment of the loan.

(2) Where the Board has resolved to make a loan to any eligible student, the Board shall notify the applicant in writing, and require him within a specified period not exceeding six months to comply with any conditions and provide any security which the Board may have imposed or demanded.

(3) Where any applicant fails to comply with the requirement of the Board notified to him under subsection (2) within the prescribed period, the application shall be deemed to have lapsed.

(4) Where in granting a higher education loan to any student the Board considers it prudent to request for a guarantor to guarantee any loan granted to a student, in case of any default by the loanee in the repayment of the loan any guarantor who has guaranteed any such loan, shall automatically and fully be liable to pay to the Board all or any loan together with interest accrued and outstanding owed to the Board by the loanee, as shall be notified to the guarantor by the Board.

(5) Where a guarantor who has been notified by the Board under subsection (4) fails or refuses to repay such loan together with any interest accrued thereon, the guarantor shall be guilty of an offence and liable to criminal prosecution or civil proceedings or both in accordance with the provisions of this Act.

Section 15 of the principal Act which it is proposed to amend—

(1) A loanee shall be required, subject to and in accordance with this Act or any regulations made thereunder, within one year of completion of his studies or within such a period as the Board decides to recall its loan whichever is the earlier—

- (a) to inform the Board of his contact address;
- (b) to begin repayment of his loan together with any interest accrued thereon;
- (c) if he is in formal employment, to authorize his employer to deduct the loan repayment and to remit it to the Board in such manner as the Board may direct.

(2) Any loanee who fails or neglects to satisfy the requirements of subsection (1) within the stipulated time shall, in addition to any other action that the Board may take against him, be guilty of an offence and liable to a fine of not less than five thousand shillings in respect of each loan deduction that remains unpaid in accordance with provisions of subsection (1), and such fine shall be payable to the Board.