



Approved
D/SNA
14th Feb 2024

REPUBLIC OF KENYA


THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES

JOINT COMMITTEE OF THE
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING
&
DEPARTMENTAL COMMITTEE ON HOUSING, URBAN PLANNING AND PUBLIC WORKS

REPORT ON CONSIDERATION OF THE AFFORDABLE HOUSING BILL, 2023

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 14 FEB 2023	
DAY: THURSDAY	
TABLED BY:	Chairperson, Committee on Finance & National Planning Hon. Kutia Kimani
CLERK-AT-THE-TABLE:	Miriam Njoro

Published by:

The Directorate of Departmental Committees
Clerk's Chambers
Parliament Buildings
NAIROBI

FEBRUARY 2023

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LIST OF ABBREVIATIONS AND ACRONYMS

LIST OF ACRONYMS

REIT	-	Real Estate Investment Trust
PAYE	-	Pay as You Earn
ICPAK	-	The Institute of Certified Public Accountants of Kenya
BETA	-	Bottom-Up Economic Transformation Agenda
KASIB	-	Kenya Association Of Stock Broker and Investment Banks

LIST OF ABBREVIATIONS

AFH	-	Affordable Housing Bill
NSE	-	Nairobi Security Exchange
ALN	-	Anjarwalla and Khanna
KBA	-	Kenya Bakers Association
PWC	-	Price Waterhouse Coopers
LSK	-	The Law Society of Kenya
ADR	-	Alternative Dispute Resolution
VAT	-	Value Added Tax
EAC	-	East Africa Community
CSR	-	Corporate Social Responsibility
MSMEs	-	Micro-Small and Medium-Sized Enterprises
CS	-	Cabinet Secretary
MDAs	-	Ministries, Departments, and Agencies

CHAIRPERSON FORWARD

This report contains proceedings of the Joint Committee of the Departmental Committee on Finance and National Planning and that of Housing, Urban Planning and Public Works on its consideration of the Affordable Housing Bill (*National Assembly Bill No. 75 of 2023*) which was published on 4th December 2023

The Bill went through the First Reading on 7th December 2023 and was thereafter committed to the Joint Committee of the Departmental Committee on Finance and National Planning and that of Housing, Urban Planning, and Public Works for consideration and reporting to the House pursuant to the provision of Standing Order 127.

The principal object of the Bill is to provide a legal framework for the establishment of the Affordable Housing Fund, access to affordable housing and in particular give effect to Article 43(1) (b) of the Constitution on the right to accessible and adequate housing. It further imposes the Affordable Housing Levy to finance the provision of affordable housing and associated social and physical infrastructure.

The Bill contains provisions on the imposition of the Affordable Housing Levy, in particular, Clause 4 imposes a levy at the rate of 1.5 percent of the gross salary of an employee in Kenya while creating the obligations of an employer in respect of the Levy and empowers the Cabinet Secretary to the National Treasury to issue exemptions from payment of the Levy to any income or class of income or any person or categories of persons that he may determine.

Further, the Bill provides for the establishment and management of the Affordable Housing Fund, sources of funds and the payment out of the Fund. Specifically, the Bill provides for the allocations out of the Fund to various agencies including the National Housing Corporation for the development, maintenance, rehabilitation and off-take of affordable housing programmes and projects, monies to slum upgrading, maintenance, rehabilitation and off-take of affordable housing programmes and projects under the Public Finance Management (Kenya Slum Upgrading, Low-Cost Housing and Infrastructure Trust Fund) Regulations 2006, monies to the State Department responsible for matters relating to affordable housing for the development, maintenance, rehabilitation and offtake of institutional housing programmes and projects approved by the Cabinet and up to two percent of the monies to the collector for the collection of the Levy and another two percent of the monies to the Board for the administration of the Fund.

In compliance with Article 118(1) (b) of the Constitution and National Assembly Standing Order 127(3), the Clerk of the National Assembly vide newspaper advertisements invited the public and stakeholders to submit memoranda on the Bill to the Departmental Committees on Housing, Urban Planning and Public Works and that of Finance and National Planning. The deadline was **Thursday 28th**

December, 2023 at 5.00 p.m. Further, the Clerk of the National Assembly on 11th January 2024 placed an advert in print media notifying and inviting the public to make an oral submission to the Joint Committee during the public hearings that had been scheduled in nineteen (19) counties on various dates namely Narok, Kisii, Homabay, Vihiga, Uasin Gishu, Turkana, Baringo, Nakuru, Nyandarua, Machakos, Kirinyaga, Embu, Kiambu, Wajir, Tana River, Lamu, Kilifi, Mombasa and Nairobi. The selection of these nineteen (19) counties was based on the formerly eight provinces in Kenya and the need to reach out to the marginalized counties and minority communities in the country.

In addition, the Committee invited stakeholders vide letter vide various letters dated 11th January 2024, 13th January 2024, 29th January 2024 for stakeholder hearings to make oral presentations before the Committee in sessions that were held in Parliament Buildings on 29th and 30th January 2024, 6th and 7th February 2024. Further, the Joint Committee on various dates held meetings with the State Department of Housing, the National Treasury and the State Law Office among government agencies.

The majority of the stakeholders supported the Affordable Housing Bill, 2023 noting that the promotion of investments in affordable housing has a multiplier effect on the economy through the creation of employment and enhanced general economy. In addition, the stakeholders suggested an amendment to the clause to incorporate representatives or professionals from the housing industry into the Affordable Housing Board. Further, the public proposed an amendment to the clause that would enable individuals to have the option of renting housing units instead of being limited solely to the purchase of units. The institutions of higher education proposed the inclusion of institutional housing as part of the affordable housing programme.

However, many stakeholders felt that the requirement for an individual to raise ten (10) percent deposit was limiting the low income from benefiting from home ownership under the affordable housing scheme. There were concerns raised on the potential duplication of roles between the NHC and Fund noting that roles envisioned for the Board under the Fund could be performed by the NHC Board. Additionally, the stakeholders were concerned about the mechanism that the government shall employ to collect the levy from the informal sector. The majority of the trade unions

On a more encouraging note, the Committee observed that the number of individual citizens and corporations who came before the Joint Committee and made oral submissions on the Bill was phenomenally high, an indication that Kenyans are taking interest in legislation. The Committee lauded this noting that it will improve the quality of legislation as the opinions of the common '*mwananchi*' will be put into consideration when making laws.

On behalf of the Joint Committee of Departmental Committee on Finance and National Planning and that of Housing, Urban Development and Public Works pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honor to present to this House the Joint Committee Report on its consideration of the Affordable Housing Bill (N.A. Bill No. 75 of 2023). The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Joint Committee further wishes to thank all stakeholders who submitted their comments on the Bill. Finally, I wish to express my appreciation to the Honorable Members of the Joint Committee and the Joint Committee Secretariat who made useful contributions towards the preparation and production of this report.

It is my pleasure to report that the Committee has considered the Affordable Housing Bill (*N.A. Bill No. 75 of 2023*) and has the honor to report back to the National Assembly with the recommendation that the Bill be **approved with amendments**.

CHAPTER ONE

1.0 PREFACE

1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEES

1. The Departmental Committee on Finance and National Planning and Departmental Committee Housing, Urban Planning and Public Works are 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 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);*
 - vii) *To examine treaties, agreements and conventions;*
 - viii) *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
 - ix) *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - x) *To examine any questions raised by Members on a matter within its mandate.*

2. Whereas, the Second Schedule to the National Assembly Standing Orders assigns the Departmental Committee on Finance and National Planning the mandate to consider matters in relation to *public finance, public audit policies, monetary policies, financial institutions, economy, investment policies, competition, banking, insurance, national statistics, population, revenue policies including taxation, national planning and development, digital finance, including digital currency.* The Departmental Committee on Housing, Urban Planning and Public Works is mandated to oversee *housing, public works, urban planning metropolitan affairs, housing development and build environment.*

1.2 COMMITTEE MEMBERSHIP

3. The Departmental Committee on Finance and National Planning and that of Housing, Urban Planning and Public Works were constituted by the House on 27th October 2022 and comprises the following Members:

Chairperson

Hon. CPA Kuria Kimani, MP
Molo Constituency
UDA Party

Vice-Chairperson

Hon. (Amb.) Langat Benjamin Kipkirui, MP
Ainamoi Constituency
UDA Party

Members

Hon. Keynan, Wehliye Adan, MP
Eldas Constituency
Jubilee Party

Hon. Oyula, Joseph H. Maero, MP
Butula Constituency
ODM Party

Hon. Mboni, David Mwalika, MP
Kitui Rural Constituency
WDM Party

Hon. Okuome Adipo Andrew, MP
Karachuonyo Constituency
ODM Party

Hon. Kipkoros, Joseph Makilap, MP
Baringo North Constituency
UDA Party

Hon. CPA Rutto Julius Kipletting, MP
Kesses Constituency
UDA Party

Hon. Biego Paul Kibichiy, MP
Chesumei Constituency
UDA Party

Hon. Sunkuyia, George Risa, MP
Kajiado West Constituency
UDA Party

Hon. Joseph K. Munyoro, MP
Kigumo Constituency
UDA Party

Hon. Sheikh Umul K Kassim, MP
Mandera County
UDM Party

Hon. Ithinji Shadrack Mwiti, MP
South Imenti Constituency
Jubilee Party

Hon. Dr. Ariko John Namoit, MP
Turkana South Constituency
ODM Party

Hon. Machele M. Soud, MP
Mvita Constituency
ODM Party

Chairperson

Hon. Johana Ng'eno Kipyegon, CBS, MP
Emurua Dikirr Constituency
UDA Party

Vice-Chairperson

Hon. Mugambi Murwithania Rindikiri, MP
Buuri Constituency
UDA Party

Members:

Hon. John Waluke Koyi, MP
Sirisia Constituency
Jubilee Party

Hon. Esther Muthoni Passaris, OGW, MP
Nairobi County Women Representative
ODM Party

Hon. Innocent Obiri Momanyi, MP
Bobasi Constituency
WDM-K Party

Hon. Joshua Kivinda Kimilu, MP
Kaiti Constituency
WDM-K Party

Hon. Samuel Kinuthia Gachobe, MP
Subukia Constituency
UDA Party

Hon. Abraham Kipsang Kirwa, MP
Mosop Constituency
UDA Party

Hon. Caleb Mutiso Mule, MP
Machakos Town Constituency
MCCP Party

Hon. (Dr.) Daniel Ogwoka Manduku, MP
Nyaribari Masaba Constituency
ODM Party

Hon. Irene Njoki Mrembo, MP
Bahati Constituency
Jubilee Party

Hon. Jane Wangechi Kagiri, OGW, MP
Laikipia County Women Representative
UDA Party

Hon. John G. Mwaniki Mukunji, MP
Manyatta Constituency
UDA Party

Hon. Maurice Kakai Bisau, MP
Kimini Constituency
DAP-K Party

Hon. Ronald Kamwiko Karauri, MP
Kasarani Constituency
Independent

1.3 JOINT COMMITTEE SECRETARIAT

4. The Committee is facilitated by the following staff:

Mr. Benjamin Magut
Principal Clerk Assistant II /Head of Secretariat

Ms. Jennifer Ndeto
Deputy Director Legal Services

Mr. Benson Kamande
Clerk Assistant III

Ms Halima Hussein
Clerk Assistant I

Mr. Benson Kamande
Clerk Assistant III

Mr. Salem Lorot
Legal Counsel I

Ms. Joyce Wachera
Hansard Reporter III

Mr. George Ndenjeshe
Fiscal Analyst III

Mr. James Macharia
Media Relations Officer

Mr. Andrew Jumanne Shangarai
Principal Serjeant-At-Arms

Mr. Simon Ouko
Ass Serjeant-At-Arms

Mr. Mwangi Muchiri
Audio Officer

Ms Penina Simeren
Legal Counsel II

Mr. Dickson Mogeni Gekara
Clerk Assistant III

Mr. Sisto Gichuhi Macharia
Clerk Assistant III

Ms. Elzy Moroto
Senior Legal Counsel

Mr. James Muguna
Research Officer II

Mr. Collins Lokitella Namulen
Fiscal Analyst III

Ms. Esther Ngechu
Senior Serjeant-At-Arms

Mr. Meldrick Kevin Sakani
Audio Recording Officer

Mr. Ambrose Nguti
Media Relations Officer III

Mr. Nelson Odida
Research Officer III

Ms. Florence Wanja
Public Communications

CHAPTER TWO

2.0 BACKGROUND

5. The Affordable Housing Bill, 2023 (National Assembly Bills No. 75 of 2023), sponsored by the Leader of the Majority Party, was published on 4th December, 2023. It was read for the first time on 7th December, 2023 and committed to both the Departmental Committee on Finance and National Planning and the Departmental Committee on Housing, Urban Planning and Public Works for consideration and reporting to the House.
6. The Bill was necessitated by the judgment of the High Court delivered on 28th November 2023 on the Constitutional Petitions by *Okoiti & 6 others v Cabinet Secretary for the National Treasury and Planning & 3 others; Commissioner-General, Kenya Revenue Authority & 3 others (Interested Parties) (Petition E181, E211, E217, E219, E221, E227, E228, E232, E234, E237 & E254 of 2023 (Consolidated)) [2023] KEHC 25872 (KLR) (Constitutional and Human Rights)*.
7. In the judgment, the High Court concluded that the Affordable Housing Levy violated Articles 10, 201, 206 and 210 of the Constitution since it lacked a comprehensive legal framework. Further, the imposition of the Affordable Housing Levy against persons in formal employment to the exclusion of other non-formal income earners to support the national housing policy was without justification unfair, discriminatory, irrational and arbitrary and in violation of Articles 27 and 201(b)(i) of the Constitution.
8. The Bill, therefore seeks to address the issues raised by the High Court in the above case. In particular, the main objective of this Bill is to create a legal structure for the Affordable Housing Fund, ensuring access to affordable housing and fulfilling the right to suitable housing as stated in Article 43(1)(b) of the Constitution. Additionally, it introduces the Affordable Housing Levy to fund affordable housing and related social and physical infrastructure.
9. The Committees, sitting jointly, were required, pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), to facilitate public participation in the Bill through an appropriate mechanism including inviting submission of memoranda; holding public hearings; consulting relevant stakeholders in the sector; and consulting experts on technical subjects.
10. In compliance with Article 118(1) (b) of the Constitution and National Assembly Standing Order 127(3), the Clerk of the National Assembly vide newspaper advertisement published on the 9th December 2023 invited the public and stakeholders

to submit memoranda on the Bill. However, the matter was challenged in the High Court through the Constitutional Petition No. E013 of 2023.

11. The Honorable Court issued a temporary order of injunction on the 19th December 2023 prohibiting the conduct of participation on the Bill in the manner prescribed in the Notice published on the 9th December 2023 in the local daily newspapers, which was the invitation to submission of memorandum on the Affordable Housing Bill, 2023. The Honorable Court further directed the parties to file responses and submissions and that the matter will be heard on 17th January 2024.
12. It is noted that the Court Orders of 19th December 2023 did not stay the legislative process or public participation. What was stayed is public participation as prescribed in the notice of the Clerk of the National Assembly published on the dailies on 9th December 2023, which was the invitation to submission of a memorandum on the Affordable Housing Bill, 2023. Therefore, proceeding with the legislative procedure and public participation except as prescribed in the notice of the Clerk of the National Assembly published on the dailies on 9th December 2023 does not violate any Court Order.
13. In view of the above, the Joint Committee took note of the issues raised and explored alternative means of facilitating public participation in accordance with Article 118(1) (b) of the Constitution and National Assembly Standing Order 127(3). It therefore resolved to facilitate public participation and involvement:
 - i. Consulting a wide cross-section of stakeholders and technical experts, and
 - ii. By way of public hearings in the following nineteen (19) counties: *Narok, Embu, Kisii, Kirinyaga, Homa Bay, Kiambu, Vihiga, Machakos, Uasin Gishu, Turkana, Baringo, Nairobi, Wajir, Nakuru, Nyandarua, Lamu, Tana River, Kilifi and Mombasa*. The public hearing were scheduled to be conducted between Wednesday 17th January 2024 and Tuesday 30th January 2024.

2.1 OVERVIEW OF THE BILL

14. The objective of the Bill is to provide a legal framework to give effect to Article 43(1)(b) of the Constitution on the right to accessible and adequate housing. It introduces the Affordable Housing Levy, set at 1.5% of gross income, to be contributed by both employees and employers, with funds directed into the Affordable Housing Fund. This fund will support various initiatives, including promoting homeownership, providing low-interest loans for housing acquisition, and developing affordable housing schemes across all counties.

15. The establishment of the Affordable Housing Board, composed of nine members, will oversee the management of the fund and ensure its efficient utilization. Allocation of funds from the Affordable Housing Fund will be distributed among entities such as the National Housing Corporation, Kenya Slum Upgrading, Low-Cost Housing and Infrastructure Fund, and the State Department for Housing and Urban Development, among others, for specific housing development and maintenance purposes. Additionally, the bill outlines eligibility criteria and application procedures for affordable housing units, categorizing them into social housing, affordable housing, and affordable market housing based on plinth area and monthly income thresholds. Finally, the bill defines the procedures for loan applications for purchasing affordable housing units, specifying interest rates or administration fees applicable to each housing category.

CHAPTER THREE

3.0 PUBLIC AND STAKEHOLDER SUBMISSIONS

3.1 HOMA BAY COUNTY

County Residents

16. During their appearance before the Joint Committee, the residents presented several proposals on the Affordable Housing Bill. These proposals are aimed to refine and enhance various aspects of the Bill to better align with their needs and interests. The proposals include:

Clause 12(2)(a)

17. The residents suggested an amendment to the clause to incorporate representatives or professionals from the housing industry into the Affordable Housing Board. They emphasized the importance of including individuals with expertise and experience in the housing sector to ensure effective management and oversight of the Affordable Housing Fund. By including representatives or professionals from the housing industry on the Board, the stakeholders believed that the decision-making process would be more informed and inclusive, leading to better outcomes for affordable housing initiatives and projects.

Joint Committee's Observation.

The Committee observed that as provided for in the Bill, clause 12(3)(e) provides for qualification for this in built environment and therefore addresses the concern of the stakeholder

Clause 4(2)(b)

18. They also proposed an amendment to the clause to specify the mechanism for collecting contributions from informal income earners. They emphasized the importance of ensuring that individuals earning informal incomes are included in the levy system outlined in the Affordable Housing Bill. By amending the clause to include clear guidelines and procedures for collecting contributions from informal income earners, the stakeholders believe that the housing program can more effectively reach and benefit a broader segment of the population, including those in the informal sector.

Joint Committee's Observation

The Committee noted the proposal by the stakeholders and recommended that the clause be amended to provide that the provision of the Tax Procedures Act 2015 shall apply

Clause 31(2)

19. The residents advocated for a significant amendment to this clause concerning the deposit rate, suggesting a reduction from the existing 10% to a much lower rate of 1.5%. They argued that the current 10% rate was perceived as excessively high and could potentially deter eligible individuals from participating in the affordable housing program. In addition, this aims to make the program more accessible and inclusive, thereby increasing participation and ensuring broader access to affordable housing opportunities for a larger segment of the population.

Joint Committee's Observation

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

Clause 37

20. The residents expressed concerns, noting the prevailing economic challenges that may lead many individuals to default on loans. They proposed a revision to the clause governing loan repayments, suggesting that the house should not be considered as collateral.
21. According to them, this amendment aims to alleviate the burden on borrowers, especially during times of financial difficulty, by removing the risk of losing their homes in the event of loan default. They stated that such a revision would provide greater security and peace of mind for borrowers, ensuring that they are not unduly penalized for circumstances beyond their control.

Joint Committee's Observation.

The Committee was of the view that the clause as proposed in the Bill was so perspective and recommended its deletion

Clause 33

22. The stakeholders recommended the deletion of the clause in its entirety to address concerns about potential exploitation by the wealthy using proxies. According to their submission, allowing the clause to remain intact could facilitate loopholes that enable individuals of higher economic status to exploit the system unfairly, potentially disadvantaging those in lower income brackets. They argued that removing the clause entirely would mitigate the risk of manipulation and ensure a fair and equitable distribution of resources within the housing program.

Joint Committee's Observation

The Committee noted stakeholders' concerns about potential abuse of the provision and recommended its deletion. Further, it also recommended that the Bill be amended to provide safeguards for instance one KRA pin one house, or any other unique identifier.

Mr. Joshua Nyamori, Board Member of National Housing Corporation and Advocate of the High Court.

23. In supporting the Bill, Mr Nyamori lauded the anticipated positive impact of the building environment on the local economy. He also noted that the Bill will contribute to increased money circulation, and stimulate the local economy through job creation and the supply of construction materials. Furthermore, the stakeholders believe that the Affordable Housing Programme will help address the imbalance between housing demand and supply resulting from population growth.
24. Mr Nyamori proposed the alignment of penalties for funds misuse in the Bill to mirror those in the Anti-Corruption and Economic Crimes Act.

Joint Committee observations

The Joint Committee agreed to the stakeholders' proposal to align the penalty for misappropriation of funds to the provision of Section 48 of the Anti-Corruption and Economic Crimes Act

25. He argued for the harmonization of provisions as contained in the current Housing Act and the Bill. The Stakeholder further argued that the existing National Housing Corporation (NHC) Board is sufficient, and there is no necessity for the establishment of a separate Affordable Housing Board.

Joint Committee observations

The Committee noted the proposal of the stakeholder but was of the view that as currently crafted the objective of NHC is to provide loans and grants of public money for the construction of dwellings. On the other hand, the objective of the Affordable Housing Bill is to provide a legal framework and a funding mode for the provision of affordable housing to Kenyans. Therefore, the Act and the Bill complement each other through a structured way of giving effect to Article 43(1)(b) of the Constitution, which provides that every person has a right to access adequate housing and reasonable standards of sanitation.

26. He also questioned the rationale behind other entities administering the fund when it is essentially a tax deduction from citizens. Mr Nyamori proposed that the NHC, with its independent board, could effectively oversee both the Affordable Housing Board and the fund without the need for additional entities, ensuring transparency and accountability.

Joint Committee's Observation

The Committee noted the concerns of the stakeholders but was of the view that as currently crafted the objective of NHC is to provide loans and grants of public money for the construction of dwellings. On the other hand, the objective of the Affordable Housing Bill is to provide a legal framework and a funding mode for the provision of affordable housing to Kenyans. Therefore, the Act and the Bill complement each other through a structured way of giving effect to Article 43(1)(b) of the Constitution, which provides that every person has a right to access adequate housing and reasonable standards of sanitation

Homabay Council of Elders

27. The stakeholders expressed support for the initiative, drawing parallels with similar initiatives in Libya where all residents were provided with accommodation. Additionally, they believe that the Bill will contribute to addressing accommodation needs for Kenyan citizens, offering the option to either rent or generate income from the housing opportunities.

Clause 31

28. They emphasized the need for flexibility in the affordable housing program by proposing an amendment to the clause that would enable individuals to have the option of renting housing units instead of being limited solely to the purchase of units. They noted that providing the rental option would cater to a wider range of preferences and financial capabilities among potential beneficiaries. They noted that the sought to address the varying needs and circumstances of individuals who may prefer renting over ownership, thereby ensuring that the affordable housing program remains inclusive and adaptable to diverse needs within the community.

Joint Committee Observation

The Committee noted the concern of the stakeholders however the guiding principle of this Bill is to promote home ownership through rent to own.

Bunge La Raia

29. The stakeholders emphasized the critical importance of transparency throughout the construction process of these projects. They highlighted the need for clear and open communication to ensure that stakeholders are informed about the progress, decisions, and outcomes related to the projects. Furthermore, they advocated for comprehensive public awareness initiatives aimed at educating the public about the provisions outlined in the Bill. By increasing awareness and understanding of the proposed provisions, the stakeholders aimed to alleviate ignorance and promote informed engagement and participation in the development and implementation of the housing projects.

Joint Committee's Observation

The Committee noted that under Clause 3(2)(a), the implementation of the Affordable Housing Program shall be guided by the National Values and Principles of Governance under Article 10(2)(b) of the Constitution which include transparency and accountability.

Persons With Disabilities (PWD)

30. The stakeholders conveyed their full endorsement of the Affordable Housing Bill, 2024 emphasizing the importance of inclusive measures to accommodate Persons with Disabilities (PWDs). They advocated for the allocation of a 5% reserve, following the Constitution of Kenya, specifically earmarked for PWDs. This allocation aimed to ensure equitable access to housing opportunities for individuals with disabilities, acknowledging their unique needs and challenges in securing suitable accommodation.

Joint Committee Observations

The noted that Clause 31(3) obligates the Board to give preference to persons with disabilities and marginalized persons among others in the allocation of Affordable Housing Units

31. Additionally, the stakeholders proposed that construction projects prioritize features that facilitate easy access to housing for PWDs, such as wheelchair ramps, wider doorways, and accessible facilities, to promote inclusivity and enhance the overall accessibility of housing units.
-

Joint Committee Observations

The Committee noted the concerns of the stakeholder, however, the Committee while agreeing with the stakeholder's sentiments noted that Section 21 of the PWDs Act provides that persons with disabilities are entitled to a barrier-free and disability-friendly

environment to enable them to have access to buildings, roads and other social amenities among others guides constructions of infrastructure.

32. Regarding governance structures, stakeholders proposed that Board Members within the Committee overseeing the Affordable Housing Bill include representation from PWDs. This proactive inclusion aimed to provide PWDs with a voice and an opportunity for meaningful participation in decision-making processes related to the implementation and management of housing projects. By ensuring representation from PWDs at the governance level, stakeholders sought to foster inclusivity, advocate for the needs of individuals with disabilities, and promote policies and practices that prioritize their rights and well-being within the affordable housing initiative.

Joint Committee's Observation

The Committee agreed with the stakeholder's proposal.

Homabay Town Bodaboda Association

33. They suggested that the Bill be temporarily suspended to prioritize education initiatives. Their proposal aimed to redirect resources and attention towards addressing educational needs and challenges, recognizing the fundamental importance of education in fostering societal development and individual empowerment. By advocating for the temporary suspension of the Bill, stakeholders sought to underscore the urgency of investing in educational infrastructure, resources, and programs to ensure equitable access to quality education for all, thereby laying a strong foundation for future socio-economic progress and sustainable development.

Deputy Vice Chancellor, Tom Mboya University

34. The Deputy Vice-Chancellor and stakeholders expressed their support for the Bill, emphasizing its significant potential to generate employment opportunities within the community. They recognized the affordable housing project as a crucial initiative that not only addresses the housing needs of the population but also serves as a catalyst for local economic development by creating job opportunities in construction, maintenance, and related sectors.
-
35. Additionally, the stakeholder highlighted the initiative's role in providing secure and decent accommodation for university students, as well as offering suitable housing options for teachers and other staff members. By ensuring access to affordable housing, the project contributes to staff retention and fosters a conducive environment for learning and academic excellence.

36. However, the stakeholders suggested that rental units or hostels be made available at an affordable rate for students through the university. This proposal aimed to enhance student enrolment by addressing the financial constraints often faced by students when seeking accommodation.
37. By providing affordable housing options directly through the university, students would have access to safe and affordable living arrangements, thereby alleviating financial burdens and promoting greater inclusivity in higher education. This approach not only supports student well-being but also contributes to the overall growth and vibrancy of the university community.

Joint Committee's Observation

The Committee noted the stakeholder's concerns and recommended that Bill be amended to include institutional housing as part of the affordable housing programme.

Juakali Association

38. They noted the importance of involving small Juakali contractors as suppliers for the project in some capacity. This suggestion reflects the stakeholders' recognition of the value that small-scale Juakali contractors can bring to the project, both in terms of their expertise and contribution to the local economy. By engaging these contractors, the project can benefit from their specialized skills and knowledge, while also providing them with valuable opportunities for participation and economic empowerment. This approach aligns with principles of inclusivity and community involvement, ensuring that a diverse range of stakeholders is involved in the project's implementation and success.

Joint Committee's Observation

The Committee noted that under Clause 3(2)(a), the implementation of the Affordable Housing Program shall be guided by the National Values and Principles of Governance under Article 10(2)(b) of the Constitution which includes transparency, accountability and public participation.

Other County Residents

39. County residents voiced their resounding support for the Affordable Housing Bill, highlighting the significant impact of the construction of these units in providing job opportunities and sustaining their families. The creation of employment through these housing projects has not only contributed to economic growth but has also improved the livelihoods of residents, underscoring the tangible benefits of the initiative for the local community.

40. Further, the residents proposed several key recommendations to enhance the effectiveness and inclusivity of the Affordable Housing Bill. They advocated for the devolution of the Board overseeing the housing projects to all county and sub-county levels, emphasizing the importance of local representation in decision-making processes.
41. Additionally, they suggested that the composition of the Board should include representation of youths, marginalized, and vulnerable groups, ensuring that the diverse needs of the community are adequately addressed.

Joint Committee's Observation

The Committee agreed with the stakeholders' proposals on the composition of the Board.

42. Additionally, residents' proposed funds allocated for constructing these units be transferred to the National Government-Constituency Development Fund to streamline resource allocation and improve accessibility. Further, they proposed reducing the 10% (percent) deposit requirement to enhance affordability for low-income earners, reflecting their commitment to ensuring equitable access to housing opportunities for all residents, regardless of socio-economic status

Joint Committee's Observation

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

JUA KALI CONTRACTORS-NATIONAL UMBRELLA ORGANIZATION

43. The stakeholders expressed their unwavering support for the Affordable Housing Bill, recognizing its potential to address the critical need for decent and affordable housing among impoverished families currently residing in substandard conditions in slums. They applauded the initiative for its focus on improving the living standards of vulnerable communities and addressing the housing crisis faced by many low-income families. By endorsing the Affordable Housing Bill, stakeholders emphasized their commitment to promoting social equity and addressing housing inequalities, thereby contributing to overall community well-being and development.

44. Furthermore, stakeholders commended the government's strategy of involving the Jua Kali sector in providing labor and construction materials for the Affordable Housing Project. They anticipated numerous benefits from this collaboration, including the expansion of workshops and increased employment opportunities for workers within the Jua Kali sector. By harnessing the skills and resources of the informal sector, stakeholders

recognized the potential to stimulate economic growth, empower local entrepreneurs, and create sustainable livelihoods for workers, ultimately contributing to the overall success and sustainability of the Affordable Housing Project.

3.2 KIRINYAGA COUNTY

Hon. Jane Njeri Maina-Women Representative, Kirinyaga County

45. She voiced her strong support for the Bill, emphasizing its potential to address the housing needs of the local community, especially for single women. Her endorsement underscored the recognition of the Bill's importance in providing accessible and affordable housing options for individuals who may face unique challenges in securing suitable accommodation, such as single women. By expressing her support, she highlighted the significance of initiatives aimed at improving housing accessibility and affordability, thereby contributing to the empowerment and well-being of single women and the broader community.

Hon. Grace Kamau and Hon. Jeremiah Makimi -Members of the County Assembly of Kirinyaga

46. They vocalized their firm endorsement of the Affordable Housing Bill of 2023, highlighting the employment opportunities it has generated for Kirinyaga residents. Their support underscored the recognition of the positive impact of the housing initiative on local economic development and job creation within the community. Additionally, they emphasized the importance of government intervention in safeguarding these employment opportunities for local contractors and ensuring that residents are empowered to participate in the purchase of houses. This reflects their dedication to fostering local empowerment and community involvement in housing initiatives, ultimately aiming to enhance socio-economic prosperity and improve living standards for residents in Kirinyaga.

Hon. Joel Ndungi-Former Member of the County Assembly of Kirinyaga

47. He underscored the significance of incorporating clustering in the allocation of houses to ensure equitable distribution across various economic levels within the population. By implementing this approach, he aimed to address the diverse housing needs of different segments of society, promoting inclusivity and accessibility to housing opportunities for all residents.

Joint Committee Observation

The Committee noted that under Clause 3(2)(a), the implementation of the Affordable Housing Program shall be guided by the National Values and Principles of Governance under Article 10(2)(b) of the Constitution which includes transparency, accountability and public participation.

48. Additionally, he advocated for the inclusion of accessibility features in the design of housing structures to accommodate Persons with Disabilities (PWDs). Recognizing the importance of creating inclusive living environments, he emphasized the need for housing units to be equipped with features that facilitate easy access and mobility for individuals with disabilities, thereby promoting independence and quality of life.

Joint Committee Observation

The Committee noted the concerns of the stakeholder, however, the Committee while agreeing with the stakeholder's sentiments noted that Section 21 of the PWDs Act provides that persons with disabilities are entitled to a barrier-free and disability-friendly environment to enable them to have access to buildings, roads and other social amenities among others guides constructions of infrastructure.

49. Further, he called for additional funding to be allocated for the acquisition of land, acknowledging a shortage of land within the County. By securing adequate land resources, he aimed to support the expansion and implementation of housing projects, ensuring sufficient space for the construction of affordable housing units to meet the growing demand within the community.

50. Lastly, he proposed a concurrent approach to address infrastructure concerns alongside the construction of houses. This multi-faceted strategy aimed to enhance the overall effectiveness and inclusivity of housing initiatives by addressing critical infrastructure needs such as roads, water supply, and sanitation systems, thereby creating sustainable and livable communities for all residents.

Joint Committee Observation

The Committee noted that the Bill already provides for the construction of associated social and physical infrastructure. Further, clause 2 of the Bill provides for the definition of an affordable housing scheme which includes social amenities, infrastructure, or services

Kirinyaga Council of Elders and other Kirinyaga residents

51. Stakeholders conveyed their resolute support for the Bill, recognizing its potential to serve as a pivotal avenue for channeling investments into the youth of Kirinyaga County. They emphasized that such investments could act as a deterrent for youth engagement in negative activities while simultaneously offering much-needed employment opportunities for the unemployed youth in the region. This dual benefit underscores the critical role of the Bill in addressing socio-economic challenges and fostering youth empowerment within the community.
52. Further, stakeholders underscored the importance of prudent fund utilization and effective implementation of the Affordable Housing Project. They urged the government to ensure transparency and accountability in the allocation and management of funds to maximize the project's impact. Additionally, stakeholders advocated for the devolution of the project to other constituencies within the county to expand its reach and foster a more widespread impact, ensuring equitable access to housing initiatives across the region.

Joint Committee Observation

The Committee noted that under Clause 3(2)(a), the implementation of the Affordable Housing Program shall be guided by the National Values and Principles of Governance under Article 10(2)(b) of the Constitution which includes transparency, accountability and public participation.

53. Moreover, stakeholders suggested incorporating the Technical and Vocational Education and Training (TVET) aspect into the Bill to promote progressiveness and sustainability in the Affordable Housing Project. They emphasized the long-term benefits of such an approach in uplifting living standards, particularly for those currently residing in substandard conditions, by providing them with skills and opportunities for meaningful employment and self-reliance.

Joint Committee Observation

The Committee agreed to amend the Bill to provide for internships for students in TVET institutions situated within areas where affordable housing is being undertaken.

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54. Additionally, stakeholders proposed the adoption of modern technology in the construction of houses while advocating for the ringfencing of opportunities for local contractors and manual laborers in the projects. This dual approach aims to not only promote development and innovation in housing construction but also support the local workforce and ensure their active participation and contribution to the project's success.

Joint Committee's Observation

The Committee observed that under clause 42(2)(f) of the Bill, the stakeholder's proposal is envisaged to be provided for under the Regulations.

3.3 EMBU COUNTY

55. The following stakeholders and members of the Public from Embu County appeared before the Joint Committee and submitted:

Embu County Government Representative

56. They advocated for the decentralization of Affordable Housing to various regions within the County. They highlighted the County government's commendable action of allocating 24 acres for an affordable housing project. Acknowledging the ongoing progress, it was reported that the Affordable Housing Program (AHP) in Embu has reached a substantial 60% completion status.

57. They emphasized the multifaceted benefits of this initiative, noting its potential to support retiring public servants, offer employment opportunities, and contribute to the overall socio-economic development of the region.

Women Representative Embu County/Office of the Women Representative

58. Hon Njoki Njeru, MP, Embu County Member of Parliament lauded the Affordable Housing Program, She noted the crucial aspect of inclusivity, advocating for the active involvement of individuals from all corners of the county in employment and business opportunities. She pointed out that the initiative resonated with the broader vision of the program, acknowledging the diversity within the community and aiming to provide equal access to economic benefits.

59. She noted that inclusivity not only aligns with principles of social justice but also recognizes the collective strength that comes from leveraging the skills and talents of a diverse workforce.

60. In addition, she noted that the Affordable Housing Program not only seeks to contribute to housing solutions but also to the overall economic empowerment and prosperity of the entire community across the county.

Traders/Slum Dwellers/ Hustlers/Youths in Embu County

61. Traders and slum dwellers advocated for a more inclusive Affordable Housing Program (AHP) that extends employment and business opportunities to both youth and women. The sentiment of support was obvious, with emphasis on the active involvement of the Jua Kali sector, acknowledged for its significant contribution. The presenters underscored the importance of inclusivity not only in economic opportunities but also in the allocation of housing units, ensuring that the benefits of the AHP extend to various segments of the population.
62. In addition, in emphasizing their backing for the initiative, they underscored the potential solution of constructing high-rise buildings. They argued that such vertical structures could optimize land use by creating more space for farming, offering a strategic response to the challenges posed by land scarcity. This perspective not only aligns with the goals of affordable housing but also envisions a sustainable approach that addresses the dual concerns of housing needs and agricultural space, fostering a more balanced and resource-efficient urban development.
63. Further, their apprehension was also centered on the lack of clarity regarding eligibility criteria, with a specific recommendation for more detailed guidelines. They expressed their inability to afford the 10% statutory deposit required for occupying a housing unit, emphasizing the need for the Bill to explore alternative avenues that would make these units financially accessible to them.

Joint Committee Observation

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

64. They also highlighted that documentation poses another challenge, as many slum dwellers may lack essential documents like KRA pins. In light of this, they pleaded for flexibility in the requirements. Additionally, slum dwellers suggest the implementation of civil education through public *barazas* to enhance awareness and understanding. Lastly, a request is made for elaboration on Section 30 of the bill to ensure transparency and comprehensiveness.

Provost

65. Recognizing the significance of this initiative, the Provost expressed their willingness to actively participate by continuing the practice of deducting and remitting the housing levy.

Staff and students of Embu Technical and Vocational Education Training Institute

66. They emphasized the valuable practical experience that students could gain through their involvement in the housing initiative, fostering a bridge between academic learning and real-world applications. Beyond economic benefits, they noted that the program is envisioned as a powerful tool to curb social vices linked to unemployment, such as substance abuse and early marriages.

67. Additionally, stakeholders foresee a positive ripple effect, with increased enrollment in Technical and Vocational Education and Training (TIVET) institutions as students are inspired by post-graduation opportunities. Ultimately, the Affordable Housing Program is seen as a catalyst for community coexistence, creating a harmonious and thriving environment through its multifaceted impact on employment, education, and social well-being.

Mason, Carpenters and Plumbers at Embu AHP Site and Representative of PWDs

68. They supported the Affordable Housing Program (AHP) and emphasized the significant employment opportunities that the program would present for the local population. They also advocated for a proactive approach in recognizing the imperative of inclusivity, especially for Persons with Disabilities (PWDs).

69. In addition, they argued that, given that at least 4% of Kenya's population comprises PWDs, a corresponding 5% reservation of housing units for PWDs within the AHP is essential. Furthermore, stakeholders stressed the importance of ensuring the accessibility of all houses for PWDs, promoting an environment that is accommodating and inclusive.

Joint Committee Observation

The noted that Clause 31(3) obligates the Board to give preference to persons with disabilities and marginalized persons among others in the allocation of Affordable Housing Units

70. They proposed that the affordable housing projects integrate PWDs into the workforce, suggesting roles such as cobblers within the AHP. Lastly, stakeholders underscore the need for PWD-friendly signage at bus stages to prevent harassment, reflecting a holistic

approach towards creating an inclusive and supportive environment for Persons with Disabilities within the Affordable Housing Program.

Joint Committee Observations

The Committee noted the concerns of the stakeholder, however, the Committee while agreeing with the stakeholder's sentiments noted that Section 21 of the PWDs Act provides that persons with disabilities are entitled to a barrier-free and disability-friendly environment to enable them to have access to buildings, roads and other social amenities among others guides constructions of infrastructure.

The Deputy Vice-Chancellor, Embu University and representative of Students

71. The stakeholders emphasized the significant impact of the AHP on university students, specifically at the University of Embu, where only 6% of the 13,000 students currently have access to accommodation. They also highlighted that the affordable housing project presents a crucial opportunity to alleviate this issue, offering accommodation at an affordable rate of 12,000 annually. This move is not just seen as a means to ease congestion in existing hostels but is also anticipated to enhance overall student performance by providing a dignified living environment conducive to academic success. The AHP, in this perspective, emerges not only as a housing solution but as a catalyst for broader societal improvements, including educational outcomes.

Embu Town Market Mama Mboga/ Uji Group

72. Ms. Maina representing Mama Mboga supported the Affordable Housing Program. She informed the Committee that she migrated from Molo to Majimbo after the post-election violence of 2007, and has been actively contributing to the affordable housing scheme. Having experienced the challenges of displacement, she recognizes the significance of affordable housing solutions and the stability they can bring to families like hers. Ms. Maina's commitment to the project is not only evident through her active participation but also in her aspiration to acquire a house for herself and her family.

Jua Kali

73. The stakeholder supported the Affordable Housing Program (AHP) and emphasized its potential to uplift people's living standards and serve as a viable source of income for individuals across the county. The provision of affordable housing emerged as a crucial aspect of this support, reflecting a shared belief in the program's capacity to bring about positive economic and social change. Moreover, there was a collective call for the decentralization of the AHP to regions beyond the Manyatta constituency, such as Mbeere South, to ensure inclusivity and fair distribution of housing projects across Embu County.

74. Further, the stakeholders proposed that the Bill needed to provide clarity in the management of affordable housing responsibilities between the National and County Governments.

75. They also noted that the proposal for deductions to be treated as savings indicates a desire for a structured and transparent financial system within the program. Lastly, the call for the National Government to acquire land and take charge of the construction process reflects the stakeholders' confidence in a centralized approach to ensure the efficiency and success of the Affordable Housing Program. These combined perspectives illustrate the multifaceted considerations and expectations of stakeholders towards the AHP.

Gitiburi Technical Group Association

76. The stakeholders proposed the decentralization of the AHP to regions beyond the Manyatta constituency, such as Mbeere South, to ensure inclusivity and fair distribution of housing projects across Embu County.

77. They also highlighted the need for equality and fairness, emphasizing that concentrating all affordable housing projects in one constituency could be perceived as unjust to the rest of the county.

Joint Committee Observations

The Committee noted that under Clause 3(2)(a), the implementation of the Affordable Housing Program shall be guided by the National Values and Principles of Governance under Article 10(2)(b) of the Constitution which includes transparency, accountability and public participation.

Mjengo Construction Workers Association

78. In expressing support for the Affordable Housing Program, stakeholders requested that both the National Government and County Government allocate 30% of projects specifically for registered associations.

Joint Committee Observations

The Committee while concurring with the stakeholder's proposal noted that the affordable housing program like any other public program will be guided by the provisions of the Public Procurement and Disposal Act, Cap 412C.

Hon Karemba Eric Muchangi, MP, Member of Parliament Runyenjes Constituency and Senator Alexander Mudingi Senator of Embu County

79. The two Members of Parliament supported the Bill, they noted that the initiative shall be able to curb the emergence of new slums, addressing the pressing issue of informal settlements. They also foresee the AHP as a strategic solution not only for providing affordable housing but also as a means to generate employment opportunities.

80. They also held that, through decentralized implementation, the program can effectively contribute to regional development, preventing the proliferation of slums while concurrently fostering economic growth through job creation. This approach aligns with a holistic vision that goes beyond addressing housing needs, actively working towards the sustainable development of diverse regions and the improvement of overall living conditions

Kenya National Pentecostal Churches Association

81. The stakeholders supported the Bill noting that it will be a key driver in reducing the overall cost of living, thereby enhancing the quality of life for citizens. To ensure equitable distribution, they proposed ringfencing the allocation of houses, preventing exclusive benefits to the wealthy. Beyond economic considerations, the AHP is seen as a catalyst for promoting peaceful retirements and longer lives for retirees, countering the societal challenges associated with retiring to slums and preserving the dignity of hardworking Kenyans

82. In addition, the stakeholder stated that the Bill will create a role in advancing gender balance, particularly in contexts where cultural norms may pose challenges for women to inherit land or property. By providing housing to single mothers, the AHP becomes a platform for empowering women, ensuring they have a secure place to inherit for the benefit of their children. In essence, the Affordable Housing Program is hailed as a comprehensive initiative that not only addresses housing needs but also contributes to the broader objectives of socio-economic development, dignity in retirement, and gender equity in Kenya.

Representatives of Mbeere North Technical & Vocational College

83. The Principal of the Mbeere North Technical & Vocational College supported the Affordable Housing Program, citing its potential to catalyze positive changes across

various spheres. Key among the anticipated impacts is the creation of employment opportunities for the youth, addressing a critical aspect of economic empowerment.

84. The stakeholders foresaw a ripple effect on the informal sector, envisioning its improvement and expansion as a result of the program. Simultaneously, the Affordable Housing Program is expected to foster the development of the local community, instilling a sense of pride and contributing to overall growth. Moreover, the stakeholders highlighted the program's role in providing a favorable learning environment, with potential benefits for the educational success of the community's youth.

85. The stakeholder further noted that the Affordable Housing Program will serve as a lucrative source of income for institutions involved in its implementation. This financial influx is anticipated to contribute to the sustainability and growth of these institutions, creating a positive economic cycle.

Embu Chapter of Bunge La Mwananchi

86. The stakeholders expressed their support for the Affordable Housing Program in the Bill, emphasizing its ability to free up land for agricultural use by addressing subdivision concerns. They expressed support for the county government's decision to gazette 24 acres of land for affordable housing, viewing it as a proactive step in tackling housing issues.

87. The stakeholders proposed the adoption of a policy facilitating the employment of local Jua Kali and informal sector workers in the design, building, and construction phases. This would ensure ample job opportunities for the local population. Additionally, stakeholders advocated for the formulation of a policy to distinctly demarcate land for construction and agriculture, underscoring the necessity of a balanced approach that accommodates both housing development and agricultural needs.

Representative of Single Mothers and Boda Boda operators

88. The stakeholders supported the Affordable Housing Program, emphasizing its potential to provide homes for single mothers. They acknowledged the program's broader positive

impact, noting its role in generating employment opportunities for various groups at the County level.

89. In addition, they voiced support for the program's principle of inclusivity, advocating for a fair distribution of Housing Units across different strata of the population. They asserted that such inclusivity is essential to reducing dependency and fostering independence within the community.

Representatives of the Settlement Executive Committee and the Informal Settlement Community

90. The stakeholder acknowledged the significance of the tenant purchase scheme within the social housing program, which aims to provide decent housing for slum dwellers at a cost of Kshs. 1 million or below, accompanied by a single-digit interest rate. Having benefited from the Slum Upgrading Programme facilitated by the State Department of Housing and Urban Development, the community representatives endorsed the Bill.

3.4 NAROK COUNTY

The following stakeholders and members of the Public appeared before the Committee on Finance and National Planning and submitted as follows:

Representative of the ODM Market Association

91. The representative of the ODM Market Association emphasized the necessity of reducing the 10% deposit requirement for a housing unit to a more manageable rate, especially considering the financial constraints faced by low-income earners. Acknowledging the pivotal role of the Bill, the Association recognized its significance in facilitating access to decent and affordable housing for individuals with limited financial means.

Joint Committee Observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

Representative of the Narok County Government Housing Department

92. The representative supported the Bill, advocating for enhanced public awareness nationwide. The stakeholder highlighted the significance of considering employees under contractual agreements within the Affordable Housing Bill. Specifically, they proposed incorporating provisions to address situations where the contract period expires,

emphasizing the importance of adaptability and inclusivity in housing solutions. This ensures that the Affordable Housing Bill caters to the diverse employment circumstances of individuals, aiming to provide comprehensive housing solutions that accommodate the needs of a wide range of residents in Narok County and beyond.

Residents of Narok County in Support of the Affordable Housing Bill

93. Part of Narok County residents expressed their support for the Affordable Housing Bill, recognizing its potential to address the housing needs of the growing population and provide employment opportunities for the youth. While commending the Committee for conducting Public Participation, the residents highlighted the need for additional civil education on the Bill, particularly targeting the illiterate population.

94. Residents raised concerns about the possibility of the rich and privileged dominating the Affordable Housing Program, acquiring units and renting them out, thus preventing less privileged individuals from achieving homeownership.

Joint Committee's Observation

The Committee noted stakeholders' concerns about potential abuse of the provision and recommended its deletion. Further, it also recommended that the Bill be amended to provide safeguards for instance one KRA pin one house, or any other unique identifier.

95. The residents stressed the importance of ensuring accessibility for Persons with Disabilities in Affordable Housing Projects. Additionally, they emphasized the need for a transparent reporting framework that details the amount deducted from contributors' incomes and available for home ownership.

Joint Committee Observation

The Committee noted the concerns of the stakeholder, however, the Committee while agreeing with the stakeholder's sentiments noted that Section 21 of the PWDs Act provides that persons with disabilities are entitled to a barrier-free and disability-friendly environment to enable them to have access to buildings, roads and other social amenities among others guides constructions of infrastructure.

96. Residents called for priority allocation of affordable housing units to locals, with a specific request for the resources required for construction to be sourced from Narok County.

Joint Committee Observations

The Committee noted that clause 30 of the Bill provides for the criteria for eligibility in allocation of the affordable housing units.

97. Regarding the 10% deposit, residents deemed it too high and urged for a downward revision, particularly for low-income earners, to ensure widespread participation in the Affordable Housing Program. Some residents proposed using the already deducted contributions, matched by employers, as the deposit for owning a housing unit.

Joint Committee Observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

98. Further, the residents pointed out that they have been contributing at least Kshs 200 to the Boma Yangu platform through the *832# USSD but expressed unawareness of the platform's developments.

Residents of Narok County opposing the Affordable Housing Bill, 2023

99. The Narok County residents who opposed the Bill contended that the county's primary needs were focused on essential infrastructure such as schools, bridges, and hospitals rather than housing. Residents expressed concerns that the affordable housing projects could have negative socio-cultural implications on the local community, as they preferred to maintain their residences in non-urban settings. In addition, they proposed an alternative approach, suggesting that the affordable housing program be made optional for each County. Specifically, they advocated for Narok to have the autonomy to opt-out of the program.
100. Narok county residents raised concerns about the insecurity that may arise due to the construction of Affordable Housing projects. They emphasized the importance of understanding how the projects would benefit them and recommended that the developments be situated in urban areas and towns rather than on land traditionally used for herding and agriculture.
101. Additionally, some residents expressed concerns about the economic challenges citizens are currently facing and proposed that the Bill be postponed until economic conditions improve.
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Representatives of Narok Jua Kali Sector

102. The Jua Kali sector supported the Bill, emphasizing its potential to generate income and create employment opportunities within the community. They also highlighted the need for skills development for those lacking the necessary expertise for the projects, ensuring that more individuals can benefit from the employment prospects the program offers.
103. The Narok Jua Kali Sector noted the 10% deposit contribution as unrealistic for their financial capacity. Instead, they proposed alternative options, suggesting either a minimal deposit of 0.1% followed by monthly installments or a daily contribution of Kshs. 50 towards the ownership of an Affordable Housing Project unit.

Joint Committee Observation

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

104. They also brought to attention that the current Bill focuses solely on collecting contributions from formally employed individuals, raising uncertainties about how contributions from the informal sector, such as the Jua Kali sector, would be gathered to access the benefits of the Affordable Housing Program. To address this, they recommended the involvement of SACCOs as a conduit for the informal sector to make their contributions to the Fund.
105. Further, the Jua Kali sector advocated for the allocation of 100% of the collected funds to the construction of the projects. They also requested representation on the Board and suggested the establishment of county-specific committees to handle affordable housing matters in every county.

Representative of the Narok Boda Boda Association

106. The boda boda riders supported the Bill acknowledging the potential of the project to generate employment and provide them with the opportunity to own decent and affordable housing. However, they raised a concern about the 10% deposit required to secure a unit, deeming it unaffordable. As an alternative, they suggested a daily payment ranging from Kshs 200 to Kshs 250 towards the acquisition of a housing unit.

Joint Committee Observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

Mr Benard Torome, former Member of the County Assembly of Narok

107. Mr Benard Torome acknowledged that the Bill would play a pivotal role in providing future generations with access to decent and affordable housing, recognizing its potential to address the pressing need for sustainable housing solutions.

108. He further highlighted the anticipated creation of employment opportunities stemming from the implementation of the Bill, emphasizing the far-reaching benefits that would positively impact numerous individuals within the community.

Representative of Persons with Disabilities in Narok

109. The representative of persons with disabilities supported the Bill. However, they underscored the critical importance of being actively considered during the planning phase of the housing units to ensure accessibility. Their emphasis on accessibility highlights the necessity of accommodating the diverse needs of individuals with disabilities, ensuring that the housing units are designed and constructed in a manner that facilitates easy access and usability for all residents.

Joint Committee Observations

The Committee noted the concerns of the stakeholders but was of the view that as currently crafted the objective of NHC is to provide loans and grants of public money for the construction of dwellings. On the other hand, the objective of the Affordable Housing Bill is to provide a legal framework and a funding mode for the provision of affordable housing to Kenyans. Therefore, the Act and the Bill complement each other through a structured way of giving effect to Article 43(1)(b) of the Constitution, which provides that every person has a right to access adequate housing and reasonable standards of sanitation

110. Additionally, they raised concerns regarding the specific parcels of land designated for unit construction, seeking clarification on the ownership status of the land earmarked for these purposes. Their inquiries about the ownership status, particularly whether it pertained to community land, reflect their commitment to ensuring transparency and accountability in the allocation and utilization of land resources for the construction of affordable housing units within Narok County.

Joint Committee Observations

The Committee noted that the current land legislations are sufficient to address the concerns of the stakeholder and their provisions need not be replicated in the Bill.

Representative of the National Youth Council Narok County

111. The Youth Council proposed that the Bill be amended to provide for measures that would benefit low-income earners and promote transparency in the unit allocation process. They proposed an extension of the payment duration, particularly for low-income earners, recognizing the financial challenges they may face in meeting payment deadlines.

Joint Committee Observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations. Further, the Committee noted that Clause 31(3) of the Bill obligates the Board to give preference to the youth, persons with disabilities and marginalized persons among others in the allocation of Affordable Housing Units.

In addition, clause 42 of the Bill mandates the Cabinet Secretary to make regulations in effect to the provisions of the Bill.

112. Additionally, they emphasized the importance of clarity and transparency in the unit allocation process, highlighting the need for clear guidelines and procedures to be established to facilitate a fair and transparent allocation process.

Joint Committee Observations

The Committee noted that under Clause 3(2)(a), the implementation of the Affordable Housing Program shall be guided by the National Values and Principles of Governance under Article 10(2)(b) of the Constitution which includes transparency, accountability and public participation.

Representative of the Ogiek Community

113. The representative of the Ogiek Community opposed the Bill, citing a lack of understanding, and suggested the need for more civic education and awareness about it.

They also sought clarification on the purpose of conducting public participation when there are already completed or ongoing affordable housing projects nationwide.

114. Additionally, the representative recommended that the proposed Board should include representation from minority groups.

Joint Committee Observations

The Committee agreed with the stakeholders' proposals on the composition of the Board.

115. They emphasized the necessity for safeguards to prevent individuals from owning more than one housing unit.

Joint Committee Observations

The Committee noted stakeholders' concerns about potential abuse of the provision and recommended its deletion. Further, it also recommended that the Bill be amended to provide safeguards for instance one KRA pin one house, or any other unique identifier.

Representative of Bomet County Residents

116. Bomet County residents supported the Bill particularly in its role as a catalyst for employment and the overall growth of the county through the Affordable Housing Programme. Bomet residents acknowledged the positive impact on their community during the construction process and expressed gratitude for the potential employment opportunities arising from these initiatives.

117. The residents emphasized the need to prioritize Persons with Disabilities (PWDs) in both unit allocation and employment opportunities within the housing projects, highlighting the importance of inclusivity.

Joint Committee Observation

The Committee noted that Clause 31(3) obligates the Board to give preference to persons with disabilities and marginalized persons among others in the allocation of Affordable Housing Units

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118. However, a concern was raised by the residents regarding the 10% deposit requirement, which they deemed as too high for individuals with low incomes. To address this, a proposal was put forth for a more affordable monthly payment plan, suggesting an amount of Kshs. 1,500. Additionally, while residents recognized the significance of full payment for the housing units, they also stressed the importance of setting a

reasonable cap on the payment period to ensure feasibility without placing excessive financial burden on low-income earners

Joint Committee Observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

3.5 VIHIGA COUNTY

119. The County residents and various stakeholders in Vihiga County appeared before the Joint Committee and submitted as follows:

Civil Servants Representative

120. The stakeholders supported the Bill, citing the positive impact of Affordable Housing projects in providing employment opportunities. Additionally, the stakeholders emphasized the need for an increase in civil servants' institutional houses to accommodate the rising number of civil servants.

Joint Committee's Observation.

The Committee noted that institutional housing has been recognized under the affordable housing program and thus will fall under the affordable housing financing framework.

County Residents

121. During their appearance before the Joint Committee, residents from Vihiga County emphasized the importance of ensuring accessibility for Persons with Disabilities (PWDs) in the design of the housing units. The residents also emphasized the necessity for the legal acquisition of land used for construction and proposed the inclusion of provisions regarding the inheritance of the units in the Bill.

122. Further, the residents advocated for equality in the distribution and construction of housing units throughout the country. They proposed that a compulsory National Environmental Management Authority impact assessment report be conducted before the commencement of any housing projects. Lastly, the stakeholders suggested that the levy collection should have a specified expiry period.

123. In addition to their previous contributions to the Affordable Housing Bill, the residents presented new amendments during the Joint Committee session.

New Clause 31(4).

124. Include a new clause that states *“Priority in allocation of units should be given to the local residents of the area.”*

125. The proposal emphasizes the importance of prioritizing local residents in the allocation of housing units within the affordable housing program. This amendment seeks to address the unique needs and priorities of the local community by ensuring that individuals who are indigenous to the area are given preference when it comes to accessing affordable housing opportunities. This aims to foster a sense of belonging and community ownership within the housing program, thereby promoting social cohesion and equitable distribution of resources. Additionally, this provision acknowledges the significance of addressing the housing needs of the local population as a fundamental aspect of sustainable development and inclusive growth within the region.

Joint Committee’s Observation

The Committee noted the concerns of the stakeholders and observed that the Cabinet Secretary shall make regulations to further operationalize the provisions of clauses 30 and 31.

Clause 15(2).

126. Amend the clause to include death as a reason for removal from office.

Joint Committee’s Observation

The Committee noted the impracticality of the stakeholder’s proposal.

Hamisi Women Jitegemee Organization

127. The stakeholders pointed out the necessity to increase the pricing of supplies to enable local suppliers, who form the majority, to make a profit. Additionally, they emphasized the importance of clear provisions for loan repayment to ensure proper understanding.

Representative of Persons with Disabilities and Marginalized Communities

Clause 12

128. The stakeholder proposed that the Bill be amended in clause 12 to include persons with disabilities representatives on the Board. The proposed amendment seeks to enhance inclusivity and representation within the Board overseeing the affordable housing program by incorporating persons with disabilities (PWD) representatives. In addition, this amendment aims to ensure that the unique needs, challenges, and perspectives of individuals with disabilities are adequately considered and addressed in the decision-making processes related to affordable housing initiatives.
129. Moreover, having PWD representatives on the Board can help promote the implementation of inclusive design principles and accessibility standards in housing projects, thereby ensuring that housing units are suitable and accessible for individuals with disabilities.

Joint Committee's Observation

The Committee agreed with the stakeholders' proposals on the composition of the Board.

130. The stakeholder further noted that the 10 percent deposit is excessively high for Persons with Disabilities (PWDs) and marginalized communities, advocating for a reduction. The representatives expressed their opinion that the supply of building materials should be allocated to locals, with a particular focus on empowering the youth. Additionally, he proposed the implementation of project models similar to the National Government Constituency Development Fund (NGCDF) to ensure that all wards benefit from the projects.

Joint Committee's Observation

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

Representative of Micro and Small Enterprises Associations (MSEA)

131. The stakeholder emphasized that the quotation pricing of building materials should be adjusted to align with market rates, ensuring that suppliers can earn a profit. In addition, the stakeholder proposed that local associations be granted representation in the Committee of the Board.

Representative of the Community Policing Committee

132. The stakeholder asserted that housing for the police and other security officers is essential, suggesting that these projects should be considered using land owned by the police
133. The stakeholder further highlighted the necessity for a provision within the Bill that offers protection of unit ownership in the event of the death of a unit owner.

Vice Chancellor of Kaimosi University

134. The Vice-Chancellor supported the Bill while noting that Vihiga County experiences a 3 percent population growth annually, coupled with a 5.1% fertility growth rate. This demographic trend underscores the need for adequate and decent housing to accommodate the growing population. The stakeholders highlighted the security challenges faced by students due to the lack of housing near the institution, emphasizing the necessity for student hostels.
135. The stakeholder noted the requirement for students to have access to decent and affordable housing. Currently, students face challenges with landlords having the discretion to increase rent at any time, as the existing accommodation infrastructure in universities does not align proportionately with the increasing student enrollment.
136. In addition to the above, the Vice Chancellor also made the following proposed the following amendment to the Bill:

Clause 7

137. Amend the clause by reducing the 3 percent penalty. Reducing the penalty rate aligns with principles of fairness and proportionality in enforcing compliance with financial obligations related to the affordable housing program.

Joint Committee's Observation

The Committee agreed with the stakeholders and noted that the penalties in the Tax Procedures Act, 2015 will apply.

Clause 11(c)

138. Amend the clause by increasing fund allocation to institutional housing to cover more students' accommodation. The proposed amendment seeks to enhance the allocation of funds towards institutional housing, particularly to expand accommodation options for students.

Joint Committee's Observation

The Committee noted the stakeholder's concerns, however, the Committee resolved to allow the Board to allocate resources on a demand basis which may also include institutional houses.

Clause 38(4)

139. Amend the clause by reducing the 90 days on voluntary savings refund to 60 days. This adjustment aims to expedite the process of returning savings to contributors who opt to withdraw their funds voluntarily.

Joint Committee's Observation

The Committee noted the stakeholder concerns and agreed to reduce the waiting days from 90 days to 60 days.

Jua Kali Representative

140. The stakeholder expressed their support for the Bill, noting that the housing projects have provided employment opportunities for the youth, contributing to a reduction in crime within the county. The stakeholder elaborated that these employment opportunities have also spurred economic growth in other sectors, including the transportation industry with contributions from boda boda riders. Additionally, the stakeholders proposed that they be granted opportunities to supply materials required for these projects.

Representative of the Kenya National Chamber of Commerce.

141. The stakeholder noted the necessity of including provisions to guarantee access to clean and safe water and the establishment of amenities for sewage services. The stakeholder further suggested the importance of considering burial grounds as part of the social amenities.

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142. Further, the stakeholder recommended reconsideration of Clauses 4 and 5, deeming it discriminatory towards salaried employees. They argued that Micro, Small, and Medium Enterprises (MSMEs) also generate income and therefore, the tax burden should be more equitable

Joint Committee's Observation

The Committee observed that clause 4(2) of the Bill is not discriminatory as it imposes the payment of the levy to both salaried and non-salaried persons.

Representative of the Ministry of Education

143. The stakeholder pointed out that social amenities integrated into the projects should encompass schools to cater to the children within the housing project community. Further, the representatives from the Ministry emphasized that, the project should also offer decent accommodation for teachers.

Joint Committee's Observation

The Committee noted the stakeholder's concerns, however, the Committee resolved to allow the Board to allocate resources on a demand basis which may also include institutional houses.

Nairobi South Youth Network

144. In their written memorandum dated 21st December 2023, Nairobi South Youth Network expressed their support for the Affordable Housing Bill, specifically endorsing the 1.5 percent contribution by both employers and employees. They stated that the affordable housing scheme or project is a commendable initiative, as it generates employment opportunities, thereby enhancing the livelihoods of numerous Kenyans.

3.6 MACHAKOS COUNTY.

145. Residents and various stakeholders from Machakos County appeared before the Joint Committee and submitted as follows:

Representative of Konza Juakali Association

146. The stakeholders supported the bill claiming that the project will generate employment both directly and indirectly.

Representative of Pentecostal and Evangelical Pastors

147. The stakeholders supported the bill, emphasizing the necessity for thorough legal documentation for each housing unit. The stakeholder also noted the importance of incorporating social amenities within the Affordable Housing Project (AHP) and

recommended a re-evaluation of the taxation levels for the lower segment of the employed.

Representative of the Business Community in Mavoko Town.

148. The stakeholders supported the Affordable Housing Project noting that, it was a good initiative for employment opportunities that would enhance the livelihoods of many Kenyans. The stakeholder proposed that the Bill should provide that employment opportunities should be ring-fenced to be undertaken by the locals. They also proposed that everyone in particular the business community should contribute to the housing levy.

Representative of the Youths/Slum Dwellers

149. The stakeholder noted that the Affordable Housing Project has been instrumental in creating employment opportunities for the youth, contributing to a reduction in crimes within the county. The stakeholder also noted that the project has played a role in facilitating town planning and enhancing land governance. However, they emphasized the presence of inadequate housing policies and laws that favors the poor and slum dwellers.

Representative of the Wadau Affordable Housing Cooperative Society/Ola Properties Limited.

150. The stakeholders supported the Bill, citing the Affordable Housing Project's role in job creation and livelihood enhancement. However, the stakeholders proposed restricting housing units to nine floors to alleviate service provision challenges. Additionally, emphasized the importance of including representation for suppliers and consumers in the Affordable Housing Board to safeguard their interests.

Representative of Persons Living with Disabilities (PWDs).

151. The stakeholders supported the Bill, noting that the Affordable Housing Project (AHP) has resulted in job creation, thereby enhancing the quality of life. However, the stakeholder emphasized the necessity for clear criteria for the allocation of houses and inquired whether some units could be reserved for Persons with Disabilities (PWDs).

Joint Committee Observation

The Committee noted that Clause 31(3) obligates the Board to give preference to persons with disabilities, marginalized persons among others in the allocation of Affordable Housing Units

152. Additionally, the stakeholder proposed the provision of support for the technical training of PWDs to integrate them into the construction of Affordable Housing Projects.

Representative of Hon. Vincent Masau Kawaya, MP Mwala Constituency

153. The stakeholder stated that the Affordable Housing Project (AHP) has generated employment opportunities but emphasized the importance of ensuring that 90 percent of these job opportunities are made available to the locals.

3.7 KIAMBU COUNTY

Kiambu County Residents

154. The residents of Kiambu County supported the Bill, viewing it as a valuable source of employment and an avenue for attaining ownership of decent and affordable housing.

155. Concerns were raised by the residents regarding the unit allocation process and suggested the adoption of a free and fair criterion that would benefit all citizens equally. Further, the residents proposed that locals from the county where a project is being executed should be given priority during both the employment process and the allocation of housing units.

156. Acknowledging the potential of the Affordable Housing Program to become a significant employer in the county, the residents urged for equality in the recruitment process. They specifically emphasized the inclusion of Persons with Disabilities, minorities, women, and youth.

157. Additionally, they proposed exempting individuals above 50 years and those with less than 10 years of retirement from paying the levy. Another proposal was to conduct Affordable Housing Projects on public land to avoid displacing people.

158. The residents also suggested securing the Boma Yangu Platform, which the public uses to access the project, and proposed a partnership between the government and private institutions, such as banks, to serve as custodians of the unit deposit.

Representative of Ruiru Jua Kali Association

159. The stakeholders supported the Bill, acknowledging it as a potential source of both direct and indirect employment opportunities for the residents of the county.

160. The stakeholder suggested the inclusion of clear regulations in the Bill to onboard the Jua Kali sector. They further recommended incorporating bankable guaranteed financing for the Jua Kali sector within the provisions of the Bill.
161. In addition, the stakeholder proposed capacity improvement initiatives for local Jua Kali artisans, emphasizing the need to provide them with specialized machines to enhance their skills. The stakeholder also put forth the idea of introducing a form of home insurance for buyers, particularly in situations where an unexpected drop or loss of income occurs during the repayment period.

Representative of Kiambu Institute of Science & Technology Students and Ruiru Technical and Vocational College Lecturers

162. The stakeholders of the Kiambu Institute of Science & Technology supported the Bill, emphasizing the program's potential to provide employment opportunities for graduates.
163. The students proposed that training and apprenticeship be provided to youths lacking the necessary skills required for employment within the Affordable Housing program.

Joint Committee Observation

The Committee agreed to amend the Bill to provide for internships for students in TVET institutions and universities situated within areas where affordable housing is being undertaken.

Kenyatta University Students representative

164. The stakeholders supported the Bill, suggesting that the pricing and payment terms for housing should be accommodating for the youth who have recently graduated and are commencing their employment or business endeavors.

Ruiru Constituency Persons with Disabilities Association

165. The stakeholders supported the Bill, emphasizing its role in providing them with access to decent and affordable housing. The stakeholder noted the significance of ensuring that the housing units are disability-friendly and advocated for an open and fair beneficiary selection process, giving individuals with disabilities a fair opportunity to own a unit.

Joint Committee Observations

The Committee noted that Clause 31(3) obligates the Board to give preference to persons with disabilities, marginalized persons among others in the allocation of Affordable Housing Units. In addition, Section 21 of the PWDs Act provides that persons with disabilities are entitled to a barrier-free and disability-friendly environment to enable them to have access to buildings, roads and other social amenities among others guiding constructions of infrastructure.

166. The stakeholder also proposed that during the employment of workers in the affordable housing projects, positions should be reserved for Persons with Disabilities.

Representative of Ruiru Maendeleo Ya Wanawake

167. The stakeholders supported the bill, suggesting that a fair criterion be employed in the allocation of units to ensure that individuals facing economic challenges, commonly referred to as hustlers, have access to houses.

Joint Committee Observations

The Committee observed that the object of the Bill is to provide for access to affordable housing thereby, catering to the needs of the low-income earners. Further, clauses 30 and 31 provide for fair criteria for the allocation of affordable housing units.

3.8 TURKANA COUNTY RESIDENTS

Representative of the Kenya Youth Organization

168. The stakeholders supported the Bill and emphasized that the projects would create employment opportunities, either directly or indirectly. They proposed that jobs generated by the Affordable Housing Projects should be reserved for the youth in the region.

169. Further, they stressed that the land allocated from the program should not disrupt the pastoralist activities of the locals and should also encompass infrastructure construction.

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170. The stakeholder advocated for the establishment of a timeframe, and contributors intending to purchase a unit should have their deposit integrated with the levy payments. Additionally, stakeholders highlighted the importance of having insurance in case of default in house payment, job loss, retirement, or death. Clarity on the succession plan in case of death was also deemed necessary

Representative of Grassroots Organizations in Kenya

171. The stakeholder proposed that the government should consider merging the Affordable Housing Levy with other similar levies like the National Social Security Fund (NSSF). They pointed out the absence of a right of subscription for a contributor and the lack of a guarantee for each contributor to acquire a house. The stakeholder further proposed the Bill be amended to clarify the role of county governments in the program to ensure that the development aligns with the specific needs of each county.

The Joint Committee Observations

The Committee noted the concerns raised by the stakeholders and observed that the Bill makes provision for the Council of Governors to appoint a member of the board. In addition, the Committee recommended the inclusion of a mechanism for engagement between County governments and national government.

172. Concerns were raised about the burden imposed on civil servants by the current amount of the levy deduction. The stakeholder proposed a reduction of the levy, taking into account that some Kenyans already own houses or are in the process of construction, suggesting that such individuals be exempted from paying the levy.

Representative of Persons with Disability (PWD)

173. The stakeholder pointed out that, Persons with Disabilities (PWDs) should be exempted from paying the levy or rent in any institutional house constructed. In addition, the stakeholders emphasized the need for PWDs to be given priority in the allocation of housing units.

Joint Committee Observation

The Committee noted that Clause 31(3) obligates the Board to give preference to persons with disabilities, marginalized persons among others in the allocation of Affordable Housing Units.

174. For individuals living in Arid and Semi-Arid Lands (ASAL), they proposed a lower contribution rate for the levy considering their adversities. The prices of Affordable Housing Project units in ASAL areas were recommended to be cheaper than those constructed in urban areas, and these units should be designed to be PWD-friendly.

Joint Committee Observations

The Committee noted the concerns of the stakeholder, however, Committee while agreeing with the stakeholder's sentiments noted that Section 21 of the PWDs Act provides that persons with disabilities are entitled to a barrier-free and disability-friendly environment to enable them to have access to buildings, roads and other social amenities among others guides constructions of infrastructure.

175. Finally, the stakeholder called for clarity on how institutional housing units would be owned, particularly addressing the issue of residents in such institutions who are regularly transferred to other stations.

Joint Committee's Observation

The Committee noted the stakeholder's concerns, however, the Committee observed that clause 42 grants the Cabinet Secretary powers to make regulations on institutional housing schemes among other items.

Representative of the Turkana Professionals Association

176. The stakeholder emphasized the need for a county-specific housing policy to align with the unique needs of each county. The stakeholders expressed the hope that the current Government housing units constructed on Government land should not be demolished for the Affordable Housing Project. Instead, they suggested that owners may be asked to purchase the land, and the government could use the funds to acquire other pieces of land.

177. Concerns were raised about the funding mechanism for the Affordable Housing Project, with stakeholders urging the government to explore alternative sources instead of relying on the levy. The stakeholders pointed out that civil servants already have existing debts, and the imposition of the levy would further strain their economic situation. Stakeholders emphasized the necessity of reconsidering the deduction and suggested the establishment of a timeline for ending the imposition of the levy.

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178. Further, the stakeholder advocated against a 10 percent deposit for individuals already contributing to the levy, asserting that their contributions should suffice for house purchases.

Joint Committee Observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

179. In addition, the stakeholder proposed a reassessment of entities funded by the levy, suggesting that the National Housing Corporation be exempted. Additionally, the stakeholders noted that the Bill lacked specificity on other sources of funding, such as partnerships.
180. The stakeholder urged consideration for the regional context in house construction, citing an example that storied houses may not be suitable for the Turkana region.

Representative of Kenya Union of Civil Servants Turkana Branch

181. The stakeholders suggested that the contribution to the levy should be voluntary rather than compulsory. The stakeholder also proposed that the current 1.5 percent deduction be applied to the basic salary rather than the gross salary.
182. Further, stakeholders emphasized the importance of including social amenities in the Affordable Housing Projects (AHPs). The stakeholder also raised the concern that retirees should be guaranteed their housing units after retirement.

Joint Committee Observation

The Committee noted the concerns of the stakeholder and observed that clause 2 under the definition of affordable housing scheme includes social amenities infrastructure or services whereas clause 10(1) refers to the development of associated social and physical infrastructure

Representative Turkana University Association

Clause 30

183. The stakeholder proposed an amendment on eligibility criteria for house ownership to include institutions, such as universities.

Joint Committee Observation

The Committee agreed with the stakeholders

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184. The stakeholder stressed the need for clarification regarding the distinctions between the Levy and the Loan for purchasing housing. Concerns were raised about the fate of funds already deducted since July 2023, given the absence of a law governing this aspect.

Joint Committee's Observation

The Committee noted that a levy means affordable housing levy imposed under Clause 4 of the Bill as a financing tool while the loan is a means of off-take

185. Further, stakeholders highlighted the lack of specification regarding the role of county governments in the Affordable Housing Project (AHP) as per the Bill.

Joint Committee Observations

The Committee noted the concerns raised by the stakeholders and observed that the Bill makes provision for the Council of Governors to appoint a member of the board. In addition, the Committee recommended the inclusion of a mechanism for engagement between County governments and national government.

186. Additionally, the stakeholder expressed concern about the allocation of housing units, especially in communities where men are allowed to have more than one wife, calling for clarity on how many units each person is entitled to.

Clause 21(1)

187. Amend the Clause to provide that, the CEO of the Board be appointed by the Public Service Commission and not by the Board.

Joint Committee Observation

The Committee was of a different view that the Mwongozo Code of Governance requires that CEOs of state corporations be recruited competitively

Representative of Kenya National Union of Teachers Turkana Branch

188. The stakeholder proposed that the Bill should take into consideration that some Kenyans already own houses or are in the process of construction, suggesting that such individuals should be exempted from paying the levy.

189. Highlighting the unique lifestyle of Turkana residents, particularly pastoralists and nomads, the Union expressed concerns that the current housing policy outlined in the Bill might not be suitable. They recommended that for pastoralist communities, storied buildings should be avoided, and instead, bungalows would be more appropriate.

190. Expressing concerns about civil servants approaching retirement, stakeholders questioned how they would benefit from the levy when they might not have a salary to continue paying for a house.

191. Stakeholders argued that formal employees already burdened with debt would face additional economic challenges with the imposition of the levy. They proposed reconsidering the levy by reducing it to 1% and applying it to the basic pay rather than the gross pay. Further, the Union advocated for the construction of the project to be funded from the current revenue collected rather than introducing a new levy.

Hon. Michael Emase- Member of County Assembly and Chief Executive Officer for Lands Physical Planning, Housing and Urban Areas.

192. The stakeholder emphasized the need for the County Government to have a more significant role in Affordable Housing Projects, arguing that the position of a representative from the Council of County Governors on the board is insufficient. They proposed the establishment of a county structure in each county to manage Affordable Housing Projects (AHPs).

Joint Committee Observations

The Committee noted the concerns raised by the stakeholders and observed that the Bill makes provision for the Council of Governors to appoint a member of the board. In addition, the Committee recommended the inclusion of a mechanism for engagement between County governments and national government.

193. The stakeholder proposed revising the 3 percent penalty to 1 percent to make it fair and friendly. On eligibility criteria, the stakeholder suggested introducing prioritization for those without houses and in slums, while those servicing mortgages might be exempted from paying the levy.

Joint Committee Observations

The Committee agreed with the stakeholders and noted that the penalties in the Tax Procedures Act will apply. In addition, the Committee noted that Clause 11(b) of the Bill provides for the allocation of funds to slum upgrading.

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194. Concerns were raised about the definition of "affordable housing" as per the Bill, with stakeholders noting the need for proper clarification on what constitutes housing that is both adequate and costs not more than thirty percent of a person's income per month to rent or acquire.
195. The Stakeholder also pointed out the lack of clarity on tax incentives for the private sector engaged in AHP, including considerations for land rates.

Joint Committee Observation

The Committee appreciated the submissions by the stakeholders however, the Committee noted that provisions of tax incentives are beyond the scope of the Bill.

196. The stakeholder expressed concerns about the specific legal framework governing the collaboration between the National and County Governments on AHP, given that it is a shared function.

Joint Committee Observations

The Committee noted the concerns raised by the stakeholders and observed that the Bill makes provision for the Council of Governors to appoint a member of the board. In addition, the Committee recommended the inclusion of a mechanism for engagement between County governments and national government. In addition, the Committee recommended the inclusion of a mechanism for engagement between County governments and national government.

197. In addition, the stakeholders sought clarification on land transfers, changes in land use, and the transfer of land from County Governments to the National Government for the project. The stakeholder suggested allocating a proportion of the fund to the county government.c

Joint Committee's Observation

The Committee noted that the current land legislations are sufficient to address the concerns of the stakeholders and their provisions need not be replicated in the Bill

Other County Residents

198. Supporting the Affordable Housing Bill, residents pointed out that the project provides training opportunities for students and employment opportunities for residents.
199. They expressed optimism that the project would offer an opportunity for Turkana residents to own houses, particularly given that many currently live in semi-permanent structures. They emphasized the need to reduce the cost of housing to make it affordable for the majority of Kenyans, especially those in hardship areas like Turkana County, which faces housing shortages due to the presence of refugees in the region.

200. Further, they proposed that contractual employees and self-employed individuals should be exempted from the levy, considering the instability of their income, and the fund could pose an economic burden on them.

3.9 NAKURU COUNTY

3.9.1 Bahati Sub-County

Representative of Bahati Bishop/Clergy

201. The stakeholders supported the Bill, acknowledging the positive impact of the housing project in creating employment opportunities for the youth. However, the stakeholders noted the importance of clarity in identifying the beneficiaries of social housing to ensure fairness and transparency in the allocation process.

202. The Clergy highlighted the need to reduce the 1.5 percent deductions to alleviate the financial burden on salaried employees, emphasizing the importance of striking a balance between funding the housing initiative and safeguarding the financial well-being of workers.

Representative of Kenya Community Forest Association

203. The stakeholders supported the Bill and proposed: Exempting employees with two years to retire from paying the housing levy; reducing the deposit from 10 percent to 5 percent; converting the 1.5 percent employee contribution into a deposit for house purchase; generating circulars by various ministries to their respective institutions to implement housing levy deductions and house purchase procedures; issuing certificates of registration to contributors as proof of receiving their monthly contributions.

The Joint Committee's Observation.

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

Representative of Civil Servants.

204. The stakeholder proposed that the employees being deducted 1.5 percent housing levy must be guaranteed allocation of the units.

205. Additionally, the stakeholder suggested that employees should receive salary increments after three years to ensure compensation for the money deducted, particularly amidst economic challenges.

Representative of Mama Mboga

206. The stakeholders supported the Bill, confirming that they have experienced benefits from the Affordable Housing Project. The stakeholders pointed out that workers at the construction sites frequently purchase food from them, thereby playing a significant role in the success of their businesses.

207. Additionally, the stakeholder stressed the importance of sensitization efforts to improve their understanding of the process for accessing the housing units. The stakeholder emphasized the need for clear communication and guidance to ensure that stakeholders are well-informed and empowered in their interactions with the project

Representative of Traders/ Youths.

208. The stakeholders supported the Bill, indicating that they have benefited from the Affordable Housing Project. The stakeholders highlighted that workers at the construction sites frequently purchase food from them, thereby contributing to the prosperity of their businesses. Furthermore, the stakeholder noted the significance of sensitization efforts to enhance their understanding of how to access the housing units, emphasizing the importance of clarity and guidance in the process

Representative Boda Boda.

209. The stakeholders supported the Bill and proposed that houses should be acquired through SACCOs. This arrangement, the stakeholder argued, would facilitate riders registered in SACCOs to make payments in manageable installments, particularly given the perceived high requirement of a 10 percent deposit.

Joint Committee Observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

Representative of Bahati Community Health Promoters.

210. The stakeholders supported the Bill, noting that this would play a crucial role in promoting decent accommodation, which the stakeholders regarded as essential for improving health standards. The stakeholder pointed out that, as a result of the employment opportunities generated by the Bill, families were able to afford healthy diets, thereby reducing the prevalence of diet-related ailments.

211. Additionally, the stakeholders made proposals for initiatives such as proper garbage collection, the implementation of social amenities like bio-digesters in sewerage collection systems, and the establishment of a reliable water system, all aimed at further enhancing health standards within the community

Representative of Bahati Executive Settlement Committee.

212. The stakeholders supported the bill and proposed that the agency responsible for allocating the units should not receive numerous applications exceeding the total number of units available. In addition, the stakeholder suggested that Persons with Disabilities (PWDs) should be allocated units that are accessible to them.

Joint Committee Observations

The Committee noted that Clause 31(3) obligates the Board to give preference to persons with disabilities, marginalized persons among others in the allocation of Affordable Housing Units

213. The stakeholder pointed out that a tribunal should be established within the bill to address and resolve settlement disputes. This proposal aimed to ensure an effective mechanism for handling any disagreements or conflicts that may arise during the implementation of the housing project.

Joint Committee Observations

The Committee noted the concerns of the stakeholders and agreed to have a provision for dispute settlement

Representative of Person Living With Disabilities (PWDs) from Bahati Constituency.

214. The stakeholder emphasized the need to have representatives for Persons with Disabilities (PWDs) included in the composition of the Board overseeing the housing project. Further, the stakeholders proposed the reduction of the deposit requirement to 10% percent specifically for PWDs.

Joint Committee Observations

The Committee agreed with the stakeholders' proposals on the composition of the Board. In addition, the Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations.

215. The stakeholder further suggested that the housing units should be PWD-friendly, ensuring easy accessibility for individuals with disabilities. These proposals aim to address the unique needs and challenges faced by PWDs in accessing affordable housing options.

The Joint Committee's Observation.

The Committee noted the concerns of the stakeholder, however, Committee while agreeing with the stakeholder's sentiments noted that Section 21 of the PWDs Act provides that persons with disabilities are entitled to a barrier-free and disability-friendly environment to enable them to have access to buildings, roads and other social amenities among others guides constructions of infrastructure.

An advocate Practicing in Bahati.

216. The stakeholder noted concern that the Bill does not adhere to the doctrine of separation of powers, as it appears to be encroaching on the functions of the County Government.

Committee Observation

The Committee noted the concerns raised by the stakeholders and observed that the Bill makes provision for the Council of Governors to appoint a member of the board. In addition, the Committee recommended the inclusion of a mechanism for engagement between County governments and national government.

217. He further argued that the imposition of a 1.5 percent levy is overly burdensome for taxpayers, suggesting that private developers could be engaged instead to provide affordable housing without imposing additional financial obligations on citizens. Additionally, he emphasized the importance of implementing safeguards to ensure that public lands allocated to private partners are used exclusively for the intended purpose of the housing project, aiming to prevent any misuse or diversion of resources.

The Joint Committee's Observations

The Committee noted that the current land legislations are sufficient to address the concerns of the stakeholders and their provisions need not be replicated in the Bill

Senior Chief

218. The stakeholders expressed support for the bill, acknowledging its benefits for low-income earners. However, the stakeholders suggested that the 10% percent deposit requirement is excessively high and should be revised downwards to make housing more accessible and affordable for individuals with limited financial resources.

The Joint Committee's Observation.

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

Other County Residents Residents.

219. The stakeholders supported the Bill, citing the Affordable Housing Projects (AHPs) as contributing to the reduction of criminal activities in their communities emphasizing the importance of security for residents upon occupation and suggesting the inclusion of social amenities such as police posts to ensure the safety of residents.
220. Additionally, they proposed that the housing projects should be implemented in all constituencies and sub-counties, aiming to extend the benefits of affordable housing initiatives to a broader population.

3.9.2 Molo Sub County

Molo Residents Expressing Support for the Bill

222. They expressed their support for the Bill, particularly emphasizing the potential employment opportunities this initiative will create. They noted that the 10% percent deposit required for purchasing a house is excessively high, especially for low-income earners. It was proposed that the Government consider reducing it to 5 percent to enhance affordability.

Joint Committee Observation

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

223. The Clergy asserted their belief that they should be represented on the Board, citing their role as representatives of the community. The stakeholders also urged the government to ensure equal distribution of projects between urban and rural areas to

prevent rural-to-urban migration. Further, they advocated for a policy to identify land for the construction of houses.

Residents Expressing Opposition to the Bill

224. The stakeholder expressed their concerns over the measures intended to alleviate the tax burden on taxpayers, they suggested either providing salary increases to employees subject to deductions or making the deduction be on basic salary.

Mr Isaac Ombuko-Vice Chancellor, Egerton University

225. He voiced his support for the Bill, citing its potential to deter the fragmentation of land, thereby preserving more land for agricultural use. Additionally, he highlighted that the allocation of funding for institutional houses would address the increasing population of students and provide additional accommodation for staff members. Finally, the stakeholder pointed out emphasized the importance of making rent and purchase costs affordable for low-income earners.

Joint Committee's Observation

The Committee noted the stakeholder's concerns, however, the Committee resolved to allow the Board to allocate resources on a demand basis which may also include institutional houses.

3.10 KISII COUNTY

The following stakeholders and members of the public appeared before the Joint Committee on Affordable Housing in Kisii County and submitted various recommendations and feedback regarding the proposed legislation

Kisii County Land Registrar

226. The stakeholders supported the bill, noting that plots of land earmarked for development have been identified and preparations are underway for the implementation of the Affordable Housing Program.

227. She further, elaborated on the steps taken to facilitate this process, including issuing notices to members of the public with leases on these lands, ensuring transparency and adherence to legal procedures.

228. Furthermore, the Kisii County Land Registrar emphasized their dedication to collaborating with the National Government to ensure the effective implementation of the Affordable Housing Program, demonstrating their proactive approach towards

achieving the program's objectives and fostering sustainable housing development within Kisii County.

Kisii County Micro and Small Entrepreneurship Association

229. The stakeholders supported the Bill, recognizing its potential to create employment opportunities for local artisans within Kisii County. However, the stakeholders also raised several concerns regarding various aspects of the Bill. Firstly, the stakeholders sought clarification on the proposed sites for the affordable housing project and the number of phases planned for implementation within Kisii County.

230. Additionally, the stakeholders inquired about the beneficiaries of the affordable houses and whether it was feasible for the houses to be constructed in each constituency of the county. They also sought information on the stakeholders involved in the project and the percentage of houses they would receive. Further, the stakeholder questioned the possibility of reducing the initial deposit of 10% to 5% and sought clarification on funding sources for qualified individuals lacking funds, as well as the tendering qualifications required.

Joint Committee Observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

231. In addition, the stakeholders were interested in understanding how the county government would benefit from the construction of housing units and the number of units that would be transferred to the counties. Lastly, they inquired about the possibility of prioritizing local Jua Kali artisans for employment at the affordable housing sites, even if some lacked formal certificates but possessed relevant work experience.

232. They suggested that Internally Displaced Persons (IDPs) and refugees be allocated housing units at half price, recognizing the challenges these groups face in accessing affordable housing. This initiative demonstrates their commitment to addressing social inequalities and providing assistance to those in need.

233. Finally, the association proposed providing start-up capital to artisans, enabling them to capitalize on the employment opportunities presented by the affordable housing projects.

Other Kisii County Residents

234. The residents supported the Bill, recognizing the potential of AHP being a significant source of employment and providing residents with access to decent and affordable housing. However, in response to the proposed legislation, residents put forth various proposals aimed at enhancing the accessibility and affordability of the housing units as follows:

- I. They proposed reducing the deposit amount to 5% to make homeownership more attainable for low-income earners and suggested a reduction in the 1.5% housing levy deduction to alleviate financial burdens on Kenyans.
- II. Residents advocated for the dispersion of housing units at the sub-county level to ensure accessibility for all Kenyans, highlighting the importance of inclusivity in the distribution of housing opportunities.
- III. They emphasized the importance of empowering local communities by ensuring that building materials are supplied to locals, with strict measures in place to enforce this provision.
- IV. They also stressed the need to prioritize local artisans and technicians for employment opportunities in the housing projects, thereby contributing to the economic development of Kisii County. Commending the National Assembly for conducting public participation in the Bill, residents encouraged ongoing public education efforts to raise awareness and understanding of the proposed legislation among the populace.

Joint Committee Observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations. Further, the Committee agreed to include a provision to provide for the use of locally available materials in the development of affordable housing units.

235. Recognizing the positive economic impact of construction activities on Kisii County, residents proposed constructive measures, including the construction of units near other amenities like police posts, to enhance the overall livability and functionality of the housing projects.

236. Finally, residents recommended the presence of representatives from the State Department of Housing and Urban Development at all Huduma Centres across the country to address housing-related matters and facilitate access to housing services for citizens.

Representative of Kisii National Polytechnic

237. The stakeholders supported the Affordable Housing Bill, suggesting that the government utilize the affordable housing program to construct student accommodation and hostels for the polytechnic under the institutional housing scheme.

238. The stakeholders lauded the strategic approach to addressing multiple societal needs simultaneously. This proposal not only aligns with the overarching goal of the bill to provide decent and affordable housing but also addresses the pressing need for adequate student housing facilities within the polytechnic.

Joint Committee Observations

The Committee noted the stakeholder's concerns, however, the Committee resolved to allow the Board to allocate resources on a demand basis which may also include institutional houses

Kisii County Pastors and Clergy Forum

239. The stakeholder proposed the review of deposit amount from 10% to 5% this was aimed at enhancing the accessibility and inclusivity of the housing projects by the poor. Additionally, they advocated for the equitable distribution of projects across constituencies within the county, emphasizing the importance of prioritizing the local community in both the allocation of housing units and job opportunities at the affordable housing projects.

Joint Committee Observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations.

240. Further, the religious leaders requested for creation of housing committees across the counties nationally that shall deal with housing matters, highlighting their desire to actively contribute to the development and implementation of housing policies.

Joint Committee Observations

The Committee noted the concerns raised by the stakeholders and recommended the inclusion of a mechanism for engagement between County governments and the National government

241. They also proposed the inclusion of areas of spiritual nourishment within the projects, underscoring the holistic approach to community development and well-being. Through their proposals, the religious leaders demonstrate a commitment to ensuring that the Affordable Housing Bill addresses the diverse needs of the population while promoting social cohesion and spiritual enrichment within the community.

Representative of Persons with Disabilities in Kisii County Association

242. The stakeholders while expressing their support for the bill, proposed that they be considered during the selection of workers in the affordable housing projects. They further proposed that the construction work be left to local contractors, not foreign companies.

243. They further proposed that the projects be spread out across the sub-counties to ensure equality in development across the country. Additionally, the committee of the Board should be established at all administrative levels including county and ward levels.

Representative of Kisii Boda Boda riders

244. The stakeholder emphasized the importance of increased public sensitization by the National Assembly to address misconceptions and misinformation surrounding the bill. The stakeholder highlighted that opposition to the bill often stems from a lack of understanding, underscoring the need for comprehensive education initiatives to ensure informed public discourse.

245. The stakeholders viewed the AHP as a significant opportunity for both employment and home ownership for Kisii residents, the boda boda riders recognize the transformative potential of the Affordable Housing program in uplifting the local community.

Representative of Kisii University

246. The stakeholders supported the Affordable Housing Bill, recognizing its potential to serve as a significant source of employment for graduates and residents alike.

Acknowledging the pressing need for decent and affordable housing solutions across Kenya, the university highlights the establishment of a fund through the bill as a crucial step towards financing the construction of such homes for Kenyans in need.

247. To address the broader challenges within the education sector, Kisii University proposes the inclusion of student accommodation within the Affordable Housing Program. This forward-thinking suggestion underscores the university's commitment to tackling the housing deficit while simultaneously addressing the critical need for adequate student housing facilities nationwide.

Joint Committee Observations

The Committee noted the stakeholder's concerns, however, the Committee resolved to allow the Board to allocate resources on a demand basis which may also include institutional houses.

3.11 NYANDARUA COUNTY

OL KALAU AND KINANGOP CONSTITUENCIES

Kipipiri Technical and Vocational College

248. During the Joint Committee hearings on the Affordable Housing Bill 2023 in Kinangop Town, Mr. Mwangi Maina, representing the college, articulated the institution's support of the government's initiative to construct affordable housing. This support stems from the recognition that such housing projects would create employment opportunities for their graduates in fields such as electrical work, plumbing, masonry, and carpentry, thereby serving as practical training grounds for students.

249. Mr. Samuel Githinji, the college's Student President, emphasized that the project transcends mere shelter provision, as it lays the groundwork for students' success and growth.

Joint Committee's Submission

The Committee noted the stakeholder's concerns, however, the Committee resolved to allow the Board to allocate resources on a demand basis which may also include institutional houses.

Hon. Patience Manga – Nominated Member of County Assembly

250. The stakeholder urged for a review of penalties for loan defaults, noting the challenging economic circumstances faced by many residents.
251. She emphasized the importance of prioritizing employment opportunities for youths within the construction sector of the projects, highlighting the significance of empowering this demographic group.
252. Further, she stressed the necessity of comprehensive public sensitization efforts, particularly targeting uneducated community members. She advocated for assisting these individuals in filling out application forms, ensuring their inclusion and understanding of the Affordable Housing Project.

Other Residents from Kinangop Constituency

During their appearance before the Joint Committee, representatives of Nyandarua county residents expressed a range of submissions and concerns regarding the Affordable Housing Bill.

253. Mr. Patrick Ndung'u, the Equity Bank Manager of the Njambini Branch, highlighted the willingness of financial institutions to collaborate with the government and locals to raise the 10 percent deposit required for purchasing a housing unit.
254. The representative of the clergy supported the Bill by emphasizing the potential increase in employment opportunities and expressing the desire for the construction of religious institutions within the housing projects. Rent-to-own arrangements were praised as a commendable approach to encourage wider adoption of the projects among residents.
255. The representative of mama mboga expressed gratitude for being beneficiaries of the projects by selling food at construction sites, while local masons found employment opportunities.
256. Overall, the residents anticipated an improvement in their quality of life through access to decent accommodation but raised concerns about the affordability of the 10 percent deposit, the need for local labor engagement, and clarity on refund policies for unsuccessful applicants. They urged the government to conduct thorough public education to ensure citizens understand the process of acquiring housing units.

Joint Committee's Observation

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

Representative of Foremen and Other workers in Affordable Housing Projects in Olkalau Town.

257. The representative of foremen and other workers in the AFH Site in Olkalau expressed their support for the Affordable Housing Bill, highlighting its positive impact on employment generation. Notably, the projects associated with the bill have created job opportunities for over 150 individuals, a testament to its potential to stimulate economic growth and provide livelihoods for local communities.

258. However, the stakeholder raised a pertinent concern regarding the size of the one-bedroom houses, emphasizing their diminutive nature. To address this issue and ensure the accommodation meets the needs of occupants adequately, the stakeholder proposed an increase in the plinth area, reflecting a commitment to optimizing the effectiveness and suitability of the affordable housing initiatives

Representative of Young Engineers.

Clause 2.

259. The stakeholder recommended an amendment to the clause about house sizes, advocating for a revision upwards to better accommodate the needs of potential occupants. This aims to address the current limitations in house sizes, ensuring that the affordable housing units align more closely with the practical requirements and expectations of residents.

Clause 31

260. The stakeholder emphasized the need for a significant reduction in the 10% deposit requirement, particularly highlighting its burden on the youth demographic. Proposing a decrease to a range between 3% to 5% to make homeownership more accessible and feasible for young individuals facing financial constraints.

The Joint Committee's Observation

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

Representatives of Persons with Disability (PWD).

261. The stakeholder noted the importance of inclusivity and equal opportunity for individuals with disabilities, particularly in accessing employment opportunities at construction sites. They underscored the need for measures to ensure that the Affordable Housing Bill's initiatives accommodate and prioritize the inclusion of people living with disabilities, aligning with principles of fairness and equity.
262. The stakeholders highlighted concerns regarding the perceived discriminatory nature of the levy imposed on salaried employees, especially those under contract, urging for a reevaluation of its impact and potential alternatives to mitigate financial strain.
263. Further, they advocated for representation in the Board to ensure that decision-making processes incorporate diverse perspectives and considerations, reflecting a commitment to fostering inclusive governance within the framework of the Affordable Housing Bill.

The Joint Committee's Observation

The Committee agreed with the stakeholders' proposals on the composition of the Board.

Nyandarua National Polytechnic

The representative of the Principal of the Polytechnic outlined several proposals aimed at enhancing the Affordable Housing Bill and its implementation.

264. The stakeholder advocated for increased youth representation on the Board to ensure diverse perspectives and meaningful engagement of young people in decision-making processes. In addition, the stakeholder highlighted the importance of including a member from the Kenya National Chamber of Commerce to provide valuable insights from the business community.

Joint Committee Observations

The Committee agreed with the stakeholders' proposals on the composition of the Board.

265. In addressing concerns about the financial burden on salaried employees, they proposed adjusting the 1.5 percent deduction to be based on basic salary rather than gross income and advocated for a reduction in the 10 percent deposit requirement to improve accessibility.

Joint Committee Observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

266. The stakeholder further emphasized the need to recognize and certify the skills of experienced construction workers without formal training through programs offered by National Polytechnics, aligning with efforts to promote skill development and employment opportunities.
267. Lastly, recognizing the housing challenges faced by students, the stakeholder urged the government to consider initiating a hostel project for the polytechnic to accommodate a larger number of students, thereby addressing an immediate need for safe and affordable accommodation.

The Joint Committee's Observation

The Committee noted the stakeholder's concerns, however, the Committee resolved to allow the Board to allocate resources on a demand basis which may also include institutional houses.

Representative of Hardware Owners.

268. The representative supported the Bill, citing the tangible benefits they have witnessed through their involvement in the Affordable Housing Program. As suppliers of building materials used in the construction of the projects, they have directly contributed to the realization of affordable housing units. This collaboration has not only bolstered the construction sector but has also generated economic opportunities for hardware owners and their businesses.

Representative of Nyandarua County Tertiary Student Students Association.

269. The representative supported the Bill, emphasizing that the Affordable Housing Program extends beyond merely providing shelter. They highlighted its multifaceted impact on social well-being, including job creation, reduction of substance abuse, and overall economic development.

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270. The stakeholder advocated for the active involvement of students enrolled in technical courses at TVETs, such as building, construction, plumbing, electrical installation, and related fields. Integrating these students into the housing program, not only would create employment opportunities, but it would also offer valuable internships and attachments to enhance their practical skills.

The Joint Committee's Observation

The Committee agreed to amend the Bill to provide for internships for students in TVET institutions and universities situated within areas where affordable housing is being undertaken.

Other Residents from Nyandarua County

271. The stakeholders while supporting the Bill, noted the positive impact on the local community by generating employment opportunities and subsequently reducing crime rates in the county.
272. The residents recommended that social amenities, particularly marketplaces, should be integrated into the projects. This holistic approach not only addresses the need for affordable housing but also ensures the development of essential infrastructure that enhances the overall well-being and quality of life for residents.

Joint Committee Observation

The Committee noted that the Bill already provides for the construction of associated social and physical infrastructure. Further, clause 2 of the Bill provides for the definition of an affordable housing scheme which includes social amenities, infrastructure, or services

3.12 BARINGO COUNTY.

Deputy Governor, Baringo County

273. He expressed his view that the land utilized for the construction of the projects should be under the management of the county government, emphasizing the importance of local involvement in the oversight of such initiatives.
274. He proposed a revision of the 10% deposit requirement, suggesting a proportional approach based on the ability to pay, with urban areas potentially contributing a higher percentage.

Joint Committee Observation

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

275. The stakeholder sought clarification on the allocation process for retired employees and the provision of essential amenities such as hospitals and schools, the stakeholder underscored the need for comprehensive planning to ensure the inclusivity and sustainability of the affordable housing projects.

The Joint Committee's Observation

The Committee noted that the Bill already provides for the construction of associated social and physical infrastructure. Further, clause 2 of the Bill provides for the definition of an affordable housing scheme which includes social amenities, infrastructure, or services.

The County Executive Committee Member for Lands in Baringo County

276. The Stakeholders raised concerns regarding the clarity of land compensation procedures outlined in the Bill, particularly emphasizing the ownership of land designated for the housing projects, which they assert belongs to the county governments. They advocated for empowering the county government to identify suitable land for these projects, aiming to mitigate potential conflicts between the national and county government land ministries.

Joint Committee Observations

The Committee noted that the current land legislations are sufficient to address the concerns of the stakeholders and their provisions need not be replicated in the Bill

277. Additionally, the Stakeholder proposed a revision to the levy structure, suggesting that the 1.5% levy should be calculated based on basic salary rather than gross salary, potentially alleviating the financial burden on employees.

Representative of the County Assembly, Baringo County.

278. The stakeholder stressed the need for differentiated deposit rates tailored to vulnerable groups within the community, suggesting a better approach to accommodate varying financial capacities.

Joint Committee Observation

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

279. The stakeholder advocated for increased involvement of the county government in these housing projects, highlighting the importance of local governance in ensuring effective implementation and addressing community-specific needs.

Joint Committee Observation

The Committee noted the concerns raised by the stakeholders and observed that the Bill makes provision for the Council of Governors to appoint a member of the board. In addition, the Committee recommended the inclusion of a mechanism for engagement between County governments and national government.

280. The stakeholder further pointed out the significance of cultural considerations in the design phase of the housing projects, emphasizing the importance of respecting and incorporating community cultural practices to enhance the relevance and acceptance of the housing initiatives.

Representative of County Policing Committee, Baringo County.

281. The stakeholder raised concern regarding the management of housing units once occupied by their owners, suggesting that management responsibilities should be surrendered to the owners themselves.

Representative of Kenya Chamber of Commerce Baringo County Chapter.

282. The stakeholder, proposed suggested a reduction in the employer contribution to the housing levy to alleviate financial burdens on businesses. In addition, proposed separate eligibility criteria for the allocation of contributors, aiming to ensure fairness and transparency in the distribution process by advocating for a more inclusive penalty system, particularly addressing delayed salaries for contract employees.

283. The stakeholder also pushed for their representation in the Board overseeing the implementation of the housing program, emphasizing the importance of private sector involvement. In addition, they proposed expanding the scope of the allocated funds for slum upgrading to include refurbishment and development of rural houses, acknowledging the diverse housing needs across different regions.

Joint Committee Observation

The Committee agreed with the stakeholders' proposals on the composition of the Board.

284. Lastly, the stakeholders urged for a revision of the 10% deposit requirement to enhance affordability for prospective homeowners. These suggestions collectively reflect the Chamber's commitment to fostering a conducive environment for affordable housing

initiatives while addressing pertinent concerns related to financial sustainability and equitable access.

Joint Committee observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

Representative of Financial Institutions in Baringo County

285. The stakeholders supported the Affordable Housing Bill, expressing readiness to contribute to the realization of the Affordable Housing Project. Specifically, they declared their willingness to extend financial assistance through the issuance of mortgages to eligible applicants. This will facilitate access to affordable housing for individuals seeking homeownership opportunities under the government's housing program

Representative of Kerio Valley Development Authority.

286. The stakeholders supported the Bill, citing the positive impact of the Affordable Housing Projects on economic development within the county and the consequent improvement in the livelihoods of local communities. However, he proposed a revision of the 10% deposit requirement specifically for the social housing units to make affordable housing options more accessible to all residents.

The Joint Committee's Observation

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

Representative KEPCHA

287. The stakeholder emphasized the importance of implementing standardized measures to prevent cartels from monopolizing the purchase of housing units to the detriment of disadvantaged individuals. In addition, the stakeholder highlighted the need for fair and equitable access to affordable housing, advocating for measures that ensure a level playing field for all potential buyers.

Joint Committee Observation

The Committee noted stakeholders' concerns about potential abuse of the provision and recommended its deletion. Further, it also recommended that the Bill be amended to provide safeguards for instance one KRA pin one house, or any other unique identifier.

288. Additionally, the stakeholder recommended revising the deduction of the 1.5 percent levy from basic salaries rather than gross salaries, aiming to alleviate the financial burden on employees while still contributing to the Affordable Housing Program.

Representative of Kenya County Workers Union in Baringo.

Clause 4(a)(b)

289. The stakeholder raised concerns regarding potential double taxation and proposed an amendment to the clause to prevent such occurrences. Specifically, they suggested revising the deduction method from gross income to basic salary to avoid imposing additional financial burdens on employees.

290. Additionally, the stakeholder highlighted the inadequacy of the ninth working day deadline for salary deductions, emphasizing that it does not account for delays in salary payments. They proposed extending the deadline to the twelfth working day to ensure fair treatment of employees and prevent undue financial strain.

Joint Committee Observation

The Committee noted that the Bill seeks to ensure harmonization of the remittance levy with other statutory reduction

Clause 11

291. The stakeholder proposed several amendments to the clause to allocate the funds more effectively and address specific community needs. Firstly, they suggested allocating 25% of the fund for slum upgrading initiatives, aiming to improve living conditions in these areas and alleviate poverty.

Joint Committee Observations

The Committee noted the stakeholder proposals, however, the Committee observed that the percentages of the allocations will be determined by the Board on a demand basis.

292. He recommended dedicating another 25% of the fund to rural areas for the establishment of business premises, aiming to stimulate economic growth and create employment opportunities in these regions.

293. The stakeholder further proposed allocating 20% of the fund to the National Housing Corporation (NHC) to support its housing initiatives at the national level.

294. The stakeholder proposed 26% of the fund to be granted to County Governments for their housing plans, ensuring that local communities receive tailored support for their housing needs.

Joint Committee Observations

The Committee noted the stakeholder proposals, however, the Committee observed that the percentages of the allocations will be determined by the Board on a demand basis.

295. Lastly, allocating 2% of the fund to the “Collector” and another 2% to the Board for administration purposes, ensuring smooth operation and management of the fund.

Clause 12(1)

296. The stakeholder proposed an amendment to the structure of fund administration, suggesting the removal of the Board and advocating for the National Housing Corporation Board to assume the role of administering the fund. This aims to streamline the administration process and leverage the existing infrastructure and expertise of the National Housing Corporation in managing housing-related initiatives.

The Joint Committee’s Observation

The Committee noted the concerns of the stakeholders but was of the view that as currently crafted the objective of NHC is to provide loans and grants of public money for the construction of dwellings. On the other hand, the objective of the Affordable Housing Bill is to provide a legal framework and a funding mode for the provision of affordable housing to Kenyans. Therefore, the Act and the Bill complement each other through a structured way of giving effect to Article 43(1)(b) of the Constitution, which provides that every person has a right to access adequate housing and reasonable standards of sanitation

Chairperson Kabarnet Market.

297. The stakeholders supported by highlighting the positive impact of the Affordable Housing Projects on businesses and employment opportunities within the community. The stakeholder emphasized that the implementation of these projects has led to significant improvements, contributing to a notable increase in cash flows across various sectors.

Kabarnet Jua Kali Representative.

298. The stakeholders from the Jua Kali sector supported the Bill, emphasizing the pivotal role that their sector plays in housing projects. They noted the importance of their sector's contribution to the success of such initiatives and advocated for representation within the composition of the Board overseeing the Affordable Housing Program.

Representative of Kabarnet Boda Boda Riders

299. The stakeholder noted the significant benefits of the Affordable Housing Project for bodaboda operators, highlighting how it would facilitate their proximity to areas with high customer traffic, thereby reducing travel time and fuel costs while enhancing their availability for potential passengers. Beyond the economic advantages, the stakeholder underscored the social impact of the project, noting that it would improve living conditions for bodaboda riders and their families, thereby addressing issues associated with slums and fostering a healthier environment for community members.

Representative of Persons with Disability (PWDs).

300. The stakeholder raised a concern regarding the representation of Persons with Disabilities (PWDs) in the Board overseeing the Affordable Housing Project. They advocated for the inclusion of PWDs in decision-making processes to ensure their voices are heard and their unique needs are addressed.

Joint Committee Observation

The Committee agreed with the stakeholders' proposals on the composition of the Board.

301. Similarly, the stakeholder emphasized the importance of designing the constructed houses to be disability-friendly, particularly in terms of accessibility features such as ramps and widened doorways, as well as ensuring that toilets are equipped with facilities suitable for individuals with disabilities. This aligns with the principles of inclusivity and accessibility, emphasizing the importance of considering the diverse needs of all community members in the planning and implementation of housing projects.

The Joint Committee's Observation

The Committee noted the concerns of the stakeholder, however, the Committee while agreeing with the stakeholder's sentiments noted that Section 21 of the PWDs Act provides that persons with disabilities are entitled to a barrier-free and disability-friendly environment to enable them to have access to buildings, roads and other social amenities among others guides constructions of infrastructure.

Secretary General Baringo Youth Forum.

302. The stakeholder highlighted the anticipated benefits such as the provision of essential social amenities like water and sewerage infrastructure.

303. However, the stakeholders raised concerns regarding youth representation in the Board overseeing the projects. He advocated for a clear framework outlining how youth representation would be achieved and stressed the importance of guaranteeing allocation opportunities for young individuals.

304. Further, the stakeholder proposed a reduction of the 10% deposit to 5% specifically for the youth to make homeownership more accessible and feasible for this demographic group.

The Joint Committee's Observation

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

Imam Representative.

305. The stakeholder noted the importance of distributing housing units across all sub-counties to ensure equitable access to affordable housing opportunities. By advocating for housing distribution that spans various sub-counties, stakeholders aim to address housing needs effectively and promote inclusive development strategies. This approach not only ensures that residents from diverse geographic areas have access to affordable housing but also contributes to balanced regional development.

Representative of the Clergy

306. The stakeholders supported the Bill and suggested that the prices of housing units should vary based on the locality, considering the differing economic conditions between urban and rural areas. Additionally, the stakeholders emphasized the importance of aligning construction projects with the priority needs of the respective communities, highlighting the necessity of prioritizing essential facilities like water infrastructure.

The Joint Committee's Observation

The Committee noted that the Bill already provides for the construction of associated social and physical infrastructure. Further, clause 2 of the Bill provides for the definition of an affordable housing scheme which includes social amenities, infrastructure, or services

Representative of Uraia Trust

307. The stakeholders emphasized the significance of civic education and public participation in shaping the Affordable Housing Bill. He stressed the need for comprehensive public awareness campaigns, advocating for outreach efforts to extend down to the ward level.

308. The stakeholder recommends the involvement of business estate developers in the construction of the housing projects, highlighting their potential contribution to the fund. By promoting broader civic engagement and encouraging the participation of diverse stakeholders, including business developers, the stakeholders aim to foster a more inclusive and informed decision-making process regarding the Affordable Housing Program.

3.13 LAMU COUNTY

Mr. Nur Kiunga

309. The stakeholder supported the Bill, he emphasized the need to put in place measures to prevent rich individuals from acquiring multiple units through proxies and subsequently renting them out to those less fortunate.

Joint Committee Observation

The Committee noted stakeholders' concerns about potential abuse of the provision and recommended its deletion. Further, it also recommended that the Bill be amended to provide safeguards for instance one KRA pin one house, or any other unique identifier.

310. He also advocated for the decentralization of the Board to ensure more effective governance and oversight. Expressing concern about the county government's involvement and potential benefits from the housing projects, he sought clarification on whether the 1.5% levy is included in the 10% deposit requirement.

311. Lastly, the stakeholder suggested that rental rates should remain consistent, particularly for individuals participating in the rent-to-own model, to ensure fairness and affordability across the board.

Reverend Kariuki Kimani

312. The stakeholders noted the importance of ensuring the prudent use of the Affordable Housing Fund, insisting that it should be strictly allocated for its intended purpose.

Joint Committee Observation

The Committee noted that clause 10(1) of the Bill ring-fences the Fund for the development of affordable housing and associated social and physical infrastructure.

313. He stressed the significance of youth employment opportunities stemming from the project and expressed a specific interest in the commencement of the project in Lamu County, anticipating its positive impact on economic development in the region. Additionally, he underscored the necessity of legally acquiring land for the project and ensuring fair compensation for landowners based on market rates.

Sheikh Ayub Omar

314. Sheik Ayub proposed a reduction in the interest rate for loan repayments to enhance affordability in meeting installment payments. The stakeholder also raised concerns about the transparency of the tendering process for the housing projects and questioned whether all housing units would be uniform nationwide.

315. He inquired into provisions to accommodate residents earning below Ksh20,000 to ensure a reasonable deduction of the levy from their salaries.

316. Lastly, he emphasized the importance of preserving land for agricultural purposes during and after the implementation of the projects.

Joint Committee Observations

The Committee while concurring with the stakeholder's proposal noted that the affordable housing program like any other public program will be guided by the provisions of the Public Procurement and Disposal Act, Cap 412C.

Other Residents from Lamu County.

317. The stakeholders from Shanga expressed their support for the Affordable Housing Bill of 2023, emphasizing the importance of providing decent accommodation, particularly for residents living in dilapidated houses. They stressed the need for inclusive

employment opportunities, ensuring that residents from every ward can benefit from the project.

318. Additionally, they advocated for the incorporation of social amenities such as places of worship and raised concerns about the availability of an insurance policy and the process of transitioning from social housing units to affordable housing units.

Joint Committee Observations

The Committee noted that the Bill already provides for the construction of associated social and physical infrastructure. Further, clause 2 of the Bill provides for the definition of an affordable housing scheme which includes social amenities, infrastructure, or services

319. The stakeholders also emphasized the importance of prioritizing locals in the supply of building materials and providing employment opportunities for persons with disabilities. Furthermore, they suggested improvements in transportation, including the provision of a ferry.

320. Representatives from Lamu Polytechnic highlighted the importance of community sensitization to raise awareness about the project's benefits and emphasized the potential for the project to provide the polytechnic with a hostel and employment and learning opportunities for its students and graduates.

Joint Committee Observation

The Committee agreed to amend the Bill to provide for internships for students in TVET institutions and universities situated within areas where affordable housing is being undertaken.

321. Ms. Abdalla Shamsa expressed concerns about the affordability of housing units given the high taxes and emphasized the need for stable employment opportunities for youth to afford houses in the future.

3.14 WAJIR COUNTY.

Wajir Town Juakali Association.

322. In their proposals to the Committee, the stakeholders proposed that employees nearing retirement should be exempted from paying the levy, citing their decreased likelihood of benefiting from the housing units due to their impending retirement.

323. The stakeholders expressed dissatisfaction with the responsiveness and efficiency of the Boma Yangu Platform, noting its inefficiencies.

Representative of the Business Community in Wajir.

324. In their proposal to the Joint Committee, the stakeholders suggested that the Affordable Housing program should take into account the population distribution of each region, as well as the religious beliefs of the people, particularly considering the Islamic faith's prohibition of interest rates.

325. They also emphasized the importance of ensuring inclusivity and accommodating diverse religious beliefs in the design and implementation of the program.

326. Additionally, they expressed concerns regarding the lack of clarity on the role of the County Government in the Affordable Housing Program.

The Joint Committee's Observation

The Committee noted the concerns raised by the stakeholders and observed that the Bill makes provision for the Council of Governors to appoint a member of the board. In addition, the Committee recommended the inclusion of a mechanism for engagement between County governments and national government.

Representatives of persons living with Disabilities/Civil Servants/Retired Civil Servants

327. The stakeholders expressed support for the Bill, emphasizing the importance of considering the security situation of local communities in determining the location of housing units. They underscored the need for safety and stability in the areas chosen for housing development, recognizing the direct impact of security conditions on the well-being of residents.

328. Further, the stakeholders highlighted the critical infrastructure requirements for the success of the Affordable Housing Program, particularly in Wajir County. They advocated for linking Wajir County to the National grid and prioritizing the reconstruction of road networks damaged by El Nino as essential precursors to the program.

329. They also argued that without reliable electricity and adequate road infrastructure, the project's success would be hindered, emphasizing the importance of addressing these fundamental infrastructure challenges before implementing the Affordable Housing Program in the region.

Representative of Affordable Housing Program Site Workers.

330. In their support of the Bill, the stakeholders asserted that the Affordable Housing Program (AHP) has significantly contributed to creating employment opportunities, thereby promoting the people's livelihoods. They acknowledged the positive impact of the AHP in generating jobs and stimulating economic growth in communities.

331. However, the stakeholders raised concerns about the importance of ensuring protection and security for homeowners in case of unforeseen circumstances such as loss of job, retirement, or death. They recommended the implementation of an insurance mechanism to safeguard homeowners and provide financial assistance in situations where individuals are unable to meet their payment obligations due to such circumstances.

Representative of Kenya National Chamber of Commerce Wajir Chapter.

332. The stakeholder pointed out the importance of incorporating essential public facilities within the vicinity of the Affordable Housing Program (AHP) units. He advocated for the inclusion of facilities such as schools, hospitals, police stations, and public toilets, highlighting the critical role these amenities play in enhancing the quality of life for residents.

Joint Committee Observation

The Committee noted that the Bill already provides for the construction of associated social and physical infrastructure. Further, clause 2 of the Bill provides for the definition of an affordable housing scheme which includes social amenities, infrastructure, or services

333. In addition, the National Chamber of Commerce stressed the need for the design of the housing units to be sensitive to the demands and preferences of the local community.

Representative of the Supreme Council of Kenya Muslims (SUPKEM).

334. The stakeholders noted the importance of ensuring Sharia compliance in the legislation governing the Affordable Housing Program. They underscored the significance of adhering to Islamic principles, particularly in financial matters, by suggesting that the law should prohibit the charging of interest rates. They highlighted the necessity for Sharia compliance to accommodate the religious beliefs and values of individuals, particularly those who adhere to Islamic teachings that prohibit the payment or receipt of interest. By advocating for a Sharia-compliant approach, they aimed to ensure that the Affordable Housing Program aligns with the religious principles and

preferences of all stakeholders, thereby promoting inclusivity and equitable access to housing opportunities.

A representative from the Social Department

335. The stakeholders supported the Bill and proposed that a percentage of the housing units be allocated to the local community. They emphasized the importance of ensuring that residents within the community have access to affordable housing options, thereby addressing local housing needs and promoting community integration.

336. In addition, the stakeholders raised concerns regarding the role of the County Government in the implementation of the Affordable Housing Program. They sought clarification on the specific responsibilities and involvement of the county governments in the implementation and oversight of the program, highlighting the need for transparency and clarity regarding the roles and responsibilities of all stakeholders involved.

The Joint Committee's Observation.

The Committee noted the concerns raised by the stakeholders and observed that the Bill makes provision for the Council of Governors to appoint a member of the board. In addition, the Committee recommended the inclusion of a mechanism for engagement between County governments and national government.

TVET Representative.

337. The stakeholder reiterated the fact that the Affordable Housing Program is an avenue for TVET students and graduates across the country to access training, apprenticeship and employment respectively.

The Joint Committee's Observation.

The Committee agreed to amend the Bill to provide for internships for students in TVET institutions and universities situated within areas where affordable housing is being undertaken.

Representative of the Clergy.

338. In expressing their opinion, the stakeholders emphasized the importance of equality in the allocation of housing units, advocating for fair treatment of both indigenous locals and non-local residents. They stressed the need to ensure that housing opportunities are distributed equitably, regardless of residency status, to promote inclusivity and avoid discrimination.

339. Additionally, they raised concerns about the burden of the housing levy on salaried employees, suggesting that the contribution should be reduced. They highlighted the strain that the current levy places on individuals with fixed incomes, emphasizing the need to alleviate this financial burden to ensure affordability and accessibility of housing for all.

Representative of the County Community Policing.

340. The stakeholders supported the Bill, and proposed a progressive approach to the housing levy, advocating for exemptions for those in the lowest income brackets. The stakeholder emphasized the importance of ensuring that the levy system is fair and equitable, particularly for individuals with lower incomes who may already face financial challenges. This will alleviate the financial burden on those least able to afford it, while still ensuring adequate funding for the Affordable Housing Program.

Representative of Human Rights

341. The stakeholder proposed the need for the government to prioritize the needs of the very poor, especially persons with disabilities (PWDs), within the Affordable Housing Program. They urged for measures to exempt the very poor, particularly PWDs, from deposit requirements, thereby enabling them to access housing units free of charge. This proposal stemmed from a recognition of the significant financial challenges faced by vulnerable groups, such as the very poor and PWDs, in accessing affordable housing. This aims to ensure that these marginalized individuals have equal opportunities to secure housing and access essential shelter services without facing additional financial barriers.

The Joint Committee's Observation

The Committee noted that Clause 31(3) obligates the Board to give preference to persons with disabilities, marginalized persons among others in the allocation of Affordable Housing Units

3.15 UASIN GISHU COUNTY.

Representative of Trade Unions

342. During their appearance before the Joint Committee on January 22, 2024, the stakeholders supported the Bill, emphasizing its potential to facilitate access to decent housing through the Affordable Housing Program. They highlighted the critical role of the program in addressing the issue of slums within the county, expressing optimism that

its implementation would contribute significantly to alleviating the prevalence of informal settlements.

Proficient Builders Kenya Association.

343. In their submission, the stakeholders expressed firm support for the government's endeavors to provide affordable housing, recognizing the fundamental role of safe and affordable housing in fostering stable living conditions, improving health outcomes, and enhancing productivity among residents. However, they raised a crucial concern regarding the need to prioritize training and capacity building for construction workers.

344. They also emphasized the importance of equipping construction workers with the necessary skills to deliver housing solutions that meet the highest standards of quality and sustainability.

Representative of Moi University.

345. The stakeholder noted that the Affordable Housing Program represents a significant step towards addressing pressing issues related to exploitation, unpredictable rental prices, and insecurity faced by students seeking external accommodation arrangements.

346. He emphasized the transformative potential of the program, particularly in revolutionizing higher education by providing government assistance to universities in developing contemporary, cost-effective housing options for both faculty and students.

Representative of Nyumba Kumi.

347. The stakeholders highlighted the importance of inclusivity and empowerment of marginalized groups in accessing affordable housing opportunities. He emphasized the need to encourage boda boda riders and other small-scale traders to register and participate in the allocation and contribution towards ownership of the housing units. This aims at promoting economic empowerment and social inclusion, ensuring that a diverse range of individuals have access to housing solutions. Furthermore, they underscored the importance of ensuring fairness for employees who contribute to the housing levy by guaranteeing their allocation of the units.

The Joint Committee's Observation

The Committee noted that Clause 31(3) obligates the Board to give preference to persons with disabilities, marginalized persons among others in the allocation of Affordable Housing Units

Representative of Person with Disability (PWD).

348. The stakeholder noted the positive impact of the Affordable Housing Program on people living with disabilities, highlighting the employment opportunities it has provided to this marginalized group. However, the stakeholder, proposed that the deposit requirement be reduced from 10% to 5% to make it more affordable for low-income earners and ensure accessibility and affordability of housing options for individuals with limited financial resources. Additionally, they requested representation in the committee of the Board, advocating for inclusion and representation of their interests in the decision-making process.

The Joint Committee's Observation

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations. In addition, the Committee agreed with the stakeholders' proposals on the composition of the Board.

Representatives of Eldoret National Polytechnic & Rift Valley Technical and Training Institute.

349. The stakeholders noted the potential benefits that the projects under the Affordable Housing Program would offer to students, particularly in terms of gaining internship opportunities. They further highlighted the importance of such projects in providing practical learning experiences for students and preparing them for their future careers.

Joint Committee Observation

The Committee agreed to amend the Bill to provide for internships for students in TVET institutions and universities situated within areas where affordable housing is being undertaken.

350. The stakeholders proposed that the Board overseeing the program should be placed under the jurisdiction of the National Housing Corporation to prevent duplication of roles and ensure efficient coordination of efforts.

The Joint Committee's Observation

The Committee noted the concerns of the stakeholders but was of the view that as currently crafted the objective of NHC is to provide loans and grants of public money for the construction of dwellings. On the other hand, the objective of the Affordable Housing Bill is to provide a legal framework and a funding mode for the provision of affordable

housing to Kenyans. Therefore, the Act and the Bill complement each other through a structured way of giving effect to Article 43(1)(b) of the Constitution, which provides that every person has a right to access adequate housing and reasonable standards of sanitation.

351. Finally, they proposed an amendment to clause 2 of the Bill, suggesting an increase in the minimum plinth area from 18 to 20 square meters and above. They argued that this would better accommodate the needs of potential residents and improve the overall quality of the housing units.

Representative of the Civil Society.

Clause 33

352. The stakeholder highlighted the need to amend clause 33 to incorporate provisions that safeguard the rights and interests of individuals who own housing units under the program. This will ensure that unit owners are protected from potential risks and vulnerabilities, thereby promoting confidence and stability within the housing market.

The Joint Committee's Observation

The Committee noted stakeholders' concerns about potential abuse of the provision and recommended its deletion. Further, it also recommended that the Bill be amended to provide safeguards for instance one KRA pin one house, or any other unique identifier.

Clause 4(a)

353. The stakeholder proposed that clause 4(a) of the Bill be amended to make the housing levy voluntary rather than compulsory. They emphasized the importance of providing individuals with the freedom to choose whether or not to contribute to the levy, reflecting a commitment to respecting the autonomy and financial discretion of citizens. This will ensure that individuals will have greater flexibility in managing their finances and making decisions regarding their participation in the Affordable Housing Program.

Youth Representative.

354. The stakeholder highlighted the positive impact of housing projects under the Affordable Housing Program on economic development within the county noting the employment opportunities generated.

355. The stakeholder suggested that engineers should provide mentorship to graduates from the community, emphasizing the importance of knowledge transfer and skills development to support the professional growth and advancement of local talent.

The Joint Committee's Observation.

The Committee agreed to amend the Bill to provide for internships for students in TVET institutions and universities situated within areas where affordable housing is being undertaken.

Other Residents from Uasin Gishu County

356. The residents emphasized the positive impact of the Affordable Housing Projects on the community, particularly in terms of job creation and crime reduction. They acknowledged that these projects have led to increased employment opportunities, contributing to a decrease in crime rates within the community. They further noted the significance of the housing units in ensuring access to decent accommodation, which in turn improves overall health standards among residents.

357. However, the stakeholders, suggested that the clergy should be included in the composition of the the Board, emphasizing the importance of diverse representation in decision-making bodies.

358. The resident further proposed that the deduction of 1.5% from salaried employees should be based on the basic salary rather than the gross salary, aiming to alleviate the financial burden on workers while recommending the reduction of the deposit requirement from the 10% deposit to 2% to make homeownership more accessible to low-income earners. In addition, the resident suggested that if a couple are both salaried employees, only one should be required to contribute to the housing levy, ensuring fairness in financial obligations.

Joint Committee Observation

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

359. Regarding the role of county government, the residents proposed an amendment to clause 11 to include allocation of the funds to the county, promoting decentralization and local development initiatives.

Joint Committee Observation

The Committee noted the concerns raised by the stakeholders and recommended the inclusion of a mechanism for engagement between County governments and the national government.

360. Finally, the residents suggested amendments to clause 12(3) to remove qualification requirements that limit to law, environment, or finance, advocating for broader representation and expertise in the decision-making process

3.16 PROFESSIONAL BODIES

Westminster Consulting

361. During their appearance before the Joint Committee, Westminster Consulting submitted a comprehensive proposal outlining their suggested amendments to the Affordable Housing Bill.

Clause 11(b)

362. The stakeholder raised concern with the section of the Bill that designates thirty percent of the collected funds to slum upgrading, maintenance, rehabilitation, and the off-take of affordable housing programs. They considered the thirty percent excessive, particularly in light of the existence of a separate budget already allocated for slum-related activities.

363. To address this issue, they recommended a comprehensive review of the current budgetary provisions for the affordable housing initiative in comparison to those designated for slum-related activities. They argued that this is essential to ensure the optimal utilization of funds, avoid redundancy, and enhance the overall efficiency of the housing initiative. They further suggested that adjustments to the allocation percentage may be necessary based on the outcomes of this review.

Joint Committee's Observation

The Committee noted the stakeholder proposals, however, the Committee observed that the percentages of the allocations will be determined by the Board on a demand basis.

Clause 11(c)

364. The stakeholder suggested that Clause 11(c) of the Bill should be amended to ensure that the allocated funds are specifically directed toward the development, maintenance, rehabilitation, and facilitation of institutional housing programs related to affordable housing initiatives. They expressed concern that the provision leaves room for funds to

be potentially diverted for administrative functions or other projects with cabinet approval.

365. They emphasized the need for a stricter mechanism to prevent any diversion of funds collected for affordable housing construction towards alternative purposes. According to the stakeholders, this amendment is crucial to maintain the integrity and effectiveness of the affordable housing initiatives outlined in the Bill and to establish a more accountable framework for addressing housing affordability concerns in communities.

Joint Committee Observation

The Committee noted that clause 10(1) of the Bill ring-fences the Fund for the development of affordable housing and associated social and physical infrastructure.

Clause 30

366. They noted Clause 30 of the Bill specifies the eligibility criteria for accessing affordable housing units, noting that it mandates Kenyan citizenship as a prerequisite. According to the stakeholder, the criteria is discriminatory to residents who are not necessarily Kenya citizens and who are levied the Housing Levy. They emphasized the need to broaden the eligibility criteria to encompass non-Kenyan citizens who are residents by their tax status and demonstrate compliance as taxpayers.
367. According to the stakeholders, failing to address this issue risks excluding a significant portion of the population that contributes to the economy and society but may not hold Kenyan citizenship. They argued that expanding the eligibility criteria to include tax-compliant non-citizens would uphold principles of inclusivity and fairness while maximizing the potential impact of affordable housing initiatives for all residents.

Clause 10(2)(b)

368. Westminster Consulting noted that Clause 10 (2)(b) provides that the fund is intended to provide low-interest loans for the acquisition of affordable housing units. They underscored the necessity for subsequent amendments in the Banking Act to exempt the affordable housing fund from its provisions. Moreover, they emphasized the importance of including the Affordable Housing Fund in the definition of Financial Institution within the Income Tax Act. This, they explained, would enable mortgage interests to be subject to Withholding Tax. According to the stakeholders, these adjustments are vital to enhancing the functionality of the affordable housing fund and

ensuring alignment with relevant financial regulations, thereby strengthening the effectiveness of affordable housing initiatives within the broader economic context.

Clause 13(2)(f)

369. The stakeholder proposed a revision of Clause 13(2)(f) of the Bill to explicitly state that no more than five percent of all allocated funds to each agency should be designated for the maintenance and rehabilitation of units specifically under the affordable housing scheme. They noted that the proposed amendment aims to bring clarity, ensuring that funds allocated to agencies are solely reserved for the upkeep and enhancement of properties directly associated with the affordable housing program.

370. Further, they noted that by implementing this adjustment, the Bill can more effectively fulfill its purpose of directing resources towards maintaining and improving units within the affordable housing scheme, rather than allocating funds to properties that may generate revenue for the agencies but are not part of the program. In addition, the amendment aligns with the overarching goal of prioritizing affordable housing initiatives and optimizing the utilization of resources to benefit those in need of affordable housing solutions.

Joint Committee Observation

The Committee noted the stakeholder's proposal, however, it was the view of the Committee that maintenance and rehabilitation of the units should be undertaken by the respective owners.

Clause 22(2)(b)

371. The stakeholder proposed that Clause 22(2)(b) of the Bill be amended to specify the entity or individual responsible for formulating the five-year affordable housing investment program. They emphasized the importance of providing specific details and milestones within the program to ensure clarity and understanding among the public, especially considering the numerous references to the program throughout the Bill.

Joint Committee's Observation

The Committee agreed with the stakeholder's proposal.

Clause 40(a)

372. They argued that the current Clause of the Bill, which imposes penalties of not exceeding 10 million shillings or imprisonment for up to five years, is insufficient to deter

large-scale financial misconduct effectively. To address this concern, they proposed the clause be amended to explicitly mandate individuals guilty of misappropriation to first return the embezzled funds with appropriate interest, treating the misappropriation akin to a loan.

373. Additionally, they proposed imposing a penalty as a percentage of the total funds misappropriated, alongside the prescribed imprisonment terms of five years as outlined in Section 40. They noted that the amendment aims to establish a more stringent and proportional consequence for financial misconduct, thereby better protecting public funds and aligning with the seriousness of misappropriation.

Joint Committee observations

Joint Committee agreed to the stakeholders' proposal to align the penalty for misappropriation of funds to the provision of Section 48 of the Anti-Corruption and Economic Crimes Act.

Clause 7

374. Clause 7 provides for the imposition of a penalty of 3% of the unpaid amount on employees for non-compliance. However, the Clause lacks clarity on the penalties for employers who may fail to deduct or remit less than required to manipulate the matching amounts. To address this gap, the stakeholder recommends that the Affordable Housing Levy be deemed to be a Tax Law under the Tax Procedures Act so that the requisite penalties and compliance issues are adequately addressed by the Collector.

Joint Committee's Observations

The Committee agreed with the stakeholders and noted that the penalties in the Tax Procedures Act will apply.

Clause 41

375. Clause 41 shields individuals from personal liability for actions taken in "good faith," however it lacks clarity on the definition and determination of good faith. This loophole creates potential challenges as individuals might exploit this protection, justifying actions that could be detrimental to the public interest without facing consequences. To address concerns regarding accountability, the stakeholder recommends that Clause 41 be reconsidered or removed.

376. Alternatively, if retained, the section should include explicit definitions and criteria for establishing "good faith" to prevent misuse. The adjustment aims to ensure fair and transparent protection without compromising accountability within the Affordable Housing initiative.

Joint Committee's Observations

The Committee noted the concerns of the stakeholders, however, the Committee was of a different view that good faith need not be defined

Other proposals

377. The stakeholder proposed the inclusion of a detailed schedule outlining house plans and specifying the exact pieces of land designated for affordable housing construction within the five-year Affordable Housing Scheme. The schedule aims to offer a comprehensive overview of planned developments, ensuring transparency and clarity regarding the locations and types of housing to be constructed.

378. They further noted that the absence of an Administrative and Appeal mechanism in the current policy raises concerns, particularly in cases of loan denial and evictions, where affected individuals lack a formal avenue to challenge decisions. To address this, it is proposed that the policy incorporate a dedicated Appeals Board, ensuring transparency and fairness. The establishment of a clear appeal procedure defined reasons for rejection and grounds for appeal, and public awareness efforts will contribute to a robust mechanism that safeguards against potential errors or injustices in loan-related decisions, fostering confidence and equity within the housing levy program.

Joint Committee's Observation

The Committee noted the concerns of the stakeholders and agreed to have a provision for a dispute settlement mechanism

379. In addition, the stakeholder also noted that Bill overlooks the specific challenges faced by individuals, particularly Muslims, who cannot avail themselves of the loan facility due to the presence of interest, contravening Islamic financial principles. This omission raises concerns about the policy's inclusivity. To address this issue, it is recommended that the policy incorporate provisions for alternative financing options adhering to Sharia principles, ensuring that individuals with religious objections to interest-bearing loans have equitable access to housing assistance. Such adjustments would enhance the policy's effectiveness and uphold principles of inclusivity and fairness.

380. They also said that to enhance inclusivity, it is recommended to broaden access to affordable housing units, especially for individuals like the elderly, by introducing a voluntary contribution system. This would enable those without a monthly gross income or salary to benefit from the housing program, with others serving as donors to facilitate their housing levy payments. To ensure financial viability and accountability, donors would also act as loan guarantors for the donors. This approach not only expands the reach of the housing program but also fosters community support and inclusivity by allowing individuals who may not contribute directly to still benefit from the initiative.
381. Further, considering the mandatory nature of the contributions, the Bill is notably silent on the scenario in which an individual contributes to the housing levy but does not intend to be allocated an affordable housing unit. It thus becomes difficult for persons contributing to the levy to see the benefit of contributing to the levy which will significantly impact their morale.
382. The Bill also lacks explicit definitions of the minimum standards and quality requirements for the constructed houses, raising concerns among citizens that the houses may not be fit for use due to potential shoddy constructions. To address this issue and alleviate public apprehensions regarding the durability and safety of the housing units, the stakeholder recommends that the policy incorporate clear and defined minimum standards. To that effect, they recommend that the agency in charge of construction should collaborate with construction industry experts and regulatory bodies to establish benchmarks for structural integrity, safety features, and overall construction standards to ensure that the affordable housing units meet adequate quality requirements. Providing assurances on quality is crucial to instill confidence among citizens and to ensure the long-term sustainability and success of the housing program.

Joint Committee's Observation

The Committee noted the stakeholders' concerns and observed that matters of quality assurance are the function of the board as provided for in clause 13(2).

383. They further noted a lack of clarity in the Bill regarding the status of the housing levy in cases of job loss, business closures or financial hardship. They said uncertainty exists as to whether the levy will be temporarily suspended until reemployment, and whether individuals will be required to settle arrears for the months they were not working, potentially shifting this expense to new employers.

384. Similarly, for self-employed individuals facing business closures, it remains unclear whether they are exempt from levy payments. To address these uncertainties, it is

suggested that the housing levy policy incorporate provisions for tolling the levy in situations of force majeure, such as job loss or business shutdowns. This aims to provide a fair and flexible solution, granting individuals facing unforeseen circumstances temporary relief from levy payments without the burden of accumulating arrears.

385. They also proposed the introduction of a mandatory waiting period between the purchase and subsequent sale of an affordable housing unit within the policy framework. This precautionary measure aims to prevent the misuse of the initiative for profit-driven motives, ensuring that the affordable housing program effectively addresses the housing crisis rather than becoming a speculative venture. By instituting a waiting period, the policy can discourage quick turnovers and speculative activities, promoting the program's primary goal of providing affordable housing solutions to those in need. This safeguard helps maintain the integrity of the housing initiative and aligns it with its intended purpose of addressing the broader societal housing challenges.

Joint Committee's Observations

The committee noted the concerns of the stakeholders but the Committee had the view that this would violate Article 40 of the Constitution on the right of property.

386. In addition to the aforementioned proposals, they emphasized the importance of explicitly specifying a fixed limit on the number of affordable housing units an individual can concurrently possess within the policy framework. This provision is deemed crucial to prevent potential abuse of the initiative, such as individuals acquiring an entire block of affordable housing units with the sole intent of profiting from resale to those in need.
387. Setting clear limitations on the number of units one can hold simultaneously, the policy ensures equitable distribution and access to affordable housing, fostering a fair and inclusive system aligned with the overarching goal of addressing housing challenges in the country. This measure serves as a safeguard against exploitation and promotes the policy's mission of providing genuine assistance to individuals facing housing difficulties, thereby enhancing the effectiveness and integrity of the affordable housing program.

Joint Committee's Observation

The Committee noted stakeholders' concerns about potential abuse of the provision and recommended its deletion. Further, it also recommended that the Bill be amended to provide safeguards for instance one KRA pin one house, or any other unique identifier.

388. Further, the stakeholder advocated for the inclusion of a provision in the Bill mandating that a minimum of 50% of the construction materials for the affordable houses, including labor, should be sourced locally. This measure intends to actively support local manufacturers and businesses, thereby fostering economic growth and sustainability within the region.

389. Therefore, promoting the utilization of local resources, the policy not only ensures a positive impact on the community but also encourages job creation and contributes to the overall development of the region. This emphasis on sourcing materials locally aligns with broader efforts to bolster domestic industries and strengthen the local economy, ultimately enhancing the resilience and self-sufficiency of the affordable housing program while simultaneously benefiting the wider community.

Joint Committee's Observation

The Committee agreed with the stakeholder proposal and recommended that the Bill be amended to provide for the sourcing of labour from local communities in the development of affordable housing units

390. Stakeholders also emphasized the importance of advocating for a fair and equitable distribution of funds allocated under the Affordable Housing initiative. They proposed that the Bill include a revenue-sharing formula and explicitly state that funds shall be allocated equally on a county-by-county basis. According to stakeholders, the proposal aims to prevent a scenario where all affordable housing units are disproportionately concentrated in a single county, ensuring that the benefits and opportunities provided by the initiative are distributed fairly across regions. They emphasized that by emphasizing equal allocation to the sub-county level, the Bill can contribute to addressing regional disparities and promoting inclusive development in various parts of the country.

391. The stakeholder noted that the Bill appears to delegate several critical matters to be governed by regulations. However, a noteworthy omission is the absence of a stipulated timeframe for the formulation and issuance of these regulations. This lack of clarity raises concerns about the timeline for crucial regulatory guidance, leaving stakeholders uncertain about the implementation of various aspects outlined in the Bill. They proposed that the Bill be amended to include a provision specifying the timeframe within which the regulations are expected to be promulgated. This amendment would provide much-needed clarity and certainty to stakeholders regarding the timeline for the

implementation of the Bill's provisions, thereby ensuring smoother and more effective execution of the affordable housing initiatives outlined in the legislation.

The Architectural Association of Kenya

On 29th January 2024, the Association submitted its written memoranda to the Joint Committee, outlining comprehensive insights and recommendations regarding pertinent issues under consideration. These include:

392. The Association expressed support for the Affordable Housing Program, emphasizing its potential to enhance the urban environment, generate employment opportunities, and stimulate the national economy. They suggested that the Bill would be best incorporated as a Regulation under the Housing Act, allowing the government to establish the fund and appoint a board to oversee its management. They argued that this would ensure the constitutional legitimacy of the fund within an established legal framework and facilitate future reviews.
393. The Stakeholders noted that the categorization of incomes, particularly the threshold between the two types of housing units, lacks alignment with government income statistics. They emphasized that the majority of Kenyans earn between 15,000 and 50,000 shillings per month, suggesting that this income bracket should be considered for low-cost housing rather than being exclusively targeted for mortgage financing.
394. Further, stakeholders emphasized the importance of considering families rather than just individuals in the criteria for social and low-cost housing, as many households rely on a combined income. They noted that concerns highlight the need for a more nuanced approach to defining and categorizing affordable housing units to ensure they effectively meet the needs of different income groups within the population.
395. Stakeholders raised concerns regarding the imposition of the affordable housing levy, which entails deducting 1.5% of employees' gross salaries. They emphasized the necessity of re-evaluating the structure of this levy to ensure broader participation in contributing to the Affordable Housing Fund, extending beyond solely those formally employed. One proposed alternative is to explore implementing an excise duty or similar type of taxation mechanism. This approach is seen as potentially alleviating the burden on individual contributors while still generating necessary funds for the Affordable Housing Program. They noted that such adjustments to the levy structure could

encourage more Kenyans to contribute to the fund, thereby supporting the initiative's goals of expanding access to affordable housing across diverse income brackets

396. Stakeholders pointed out the importance of clarifying the nomination process for Board members and ensuring a stronger representation of professionals from the built environment sector. Specifically, they proposed that the Clause concerning Board establishment explicitly outlines the organizations responsible for nominating members. These nominations should include representatives from key professional bodies such as The Architectural Association of Kenya, the Law Society of Kenya, and ICPAK (Institute of Certified Public Accountants of Kenya).

Joint Committee observations

The Committee noted the stakeholder comments however, as currently provided the board is well represented as provided in Clause 12(3). Further Clause 18 of the Bill provides an opportunity for the board to co-opt members to assist the board in their areas of expertise.

397. Additionally, stakeholders advocate for consolidating the appointing authority either to the Office of the President or the Office of the Cabinet Secretary to streamline the process and ensure accountability. Furthermore, stakeholders recommend the creation of the office of the Vice Chairperson of the Board, stipulating that this position should be held by an individual of the opposite gender. This measure aims to promote gender diversity and inclusion within the board's leadership structure, enhancing its effectiveness and representativeness in overseeing the Affordable Housing Program
398. In addition, the stakeholders emphasized the crucial role of professionals from the built environment sector in guiding the planning, design, engineering, and project costing aspects of the Affordable Housing Fund. They underscored the importance of ensuring direct representation from key professional bodies in this sector. Specifically, stakeholders proposed that three slots on the board of the Affordable Housing Fund be exclusively reserved for individuals nominated by prominent organizations such as the Architectural Alliance of Kenya, The Institute of Quantity Surveyors of Kenya and the Institution of Engineers of Kenya.

Joint Committee's Observation

The Committee noted the stakeholder comments however, as currently provided the board is well represented as provided in Clause 12(3). Further Clause 18 of the Bill

provides an opportunity for the board to co-opt members to assist the board in their areas of expertise.

399. Stakeholders also pointed out a significant gap in the Affordable Housing Bill, noting the absence of provisions addressing urban planning and regeneration. They emphasized the importance of incorporating these elements into the legislation to ensure the development of sustainable communities and neighborhoods. Stakeholders highlighted the predominantly residential nature of urban areas and stressed the need for seamless integration of additional housing schemes into existing urban fabric. Integrating urban planning and regeneration into the Affordable Housing Bill, they argue, is not only practical but also strategically imperative. Doing so would enable the creation of cohesive and well-designed neighborhoods that prioritize accessibility, high quality of life, and community resilience.
400. Stakeholders commended the Affordable Housing Bill for its proposed distribution of funds among various entities, including the National Housing Corporation (NHC), the Slum Upgrading Program, the State Department for Housing and Urban Development, the levy collector, and the Board.
401. However, they proposed an additional measure to enhance the impact of the statute by incorporating a dedicated fund allocation for research initiatives, aimed at addressing significant information gaps in the realm of affordable housing and local building materials.

Joint Committee's Observation

The Committee noted the stakeholder proposals, however, the Committee observed that the allocations will be determined by the Board on a demand basis.

402. The Association raised concerns regarding the qualification criteria for members of the Affordable Housing Board, highlighting the need for specificity and acknowledgment of specialized expertise within the built environment sector. They argued that the current criteria, which broadly specify qualifications in either Built Environment, Finance, or Law, lack the necessary granularity to ensure effective implementation, particularly in affordable housing projects.
403. In response to this, stakeholders proposed a refined approach that recognizes the distinctive roles of professionals within the built environment. Specifically, they suggested that the Architectural Alliance of Kenya (AAK), given its encompassment of eight professions and architects' predominant role in housing matters, should nominate

qualified built environment professionals to the board. Similarly, the Institute of Certified Public Accountants of Kenya (ICPAK) and the Law Society of Kenya (LSK) should nominate finance and law professionals, respectively. Stakeholders advocate for these nominations to be explicitly indicated in the act, akin to the delineation of nominating bodies such as COTU and FKE, to ensure a balanced and expert-driven composition of the Affordable Housing Board

Joint Committee's Observation

The Committee noted the stakeholder comments however, as currently provided the board is well represented as provided in Clause 12(3). Further Clause 18 of the Bill provides an opportunity for the board to co-opt members to assist the board in their areas of expertise

404. Lastly, the Association raised a procedural concern regarding the Affordable Housing Bill, noting that it was tabled in the National Assembly for its first reading without undergoing public participation, particularly about engaging built environment professionals for their input. They underscored the constitutional importance of public participation in the national development process, as outlined in various provisions of the Constitution of Kenya 2010 that is provisions on public participation are spelled out in Articles 69 (1) (d), 118, 174, 184, 196, 201 (a), 221 (5), and 232 (1) (d) among others.
405. These provisions emphasize the significance of collecting views from diverse stakeholders to ensure the relevance of public investments. In light of this, stakeholders stress the necessity for the Bill to undergo thorough public participation, allowing built environment professionals to contribute their expertise and perspectives in support of the Bill. They emphasize that engaging in public participation not only gives the Bill a public voice but also instills confidence in its legitimacy and effectiveness.

The Kenya Green Building Society

406. In their submission before the Committee on January 30th, 2024, they proposed that the commissioner general should undertake the collection using KRA data. They justified this by stating that it would streamline the process and leverage existing expertise. They argued that centralizing collection would ensure transparency, accountability, and efficient disbursement to targeted beneficiaries, thus minimizing administrative overhead and fostering trust in the program's management.

Joint Committee's Observation

The Committee noted the concerns however, the Committee observed that clause 2 of the Bill provides for the definition of a collector which means the Commissioner General of KRA

Clause 3(2)

407. In their proposal, they emphasized the importance of ensuring that affordable housing goes beyond mere affordability by introducing a guideline focusing on essential quality-of-life standards. They suggested that this guideline would guarantee minimum acceptable conditions for the health, safety, and long-term value of the dwellings, encompassing specific standards such as space, sanitation, safety features, and accessibility. They argued that such measures would not only benefit occupants directly but also reduce future maintenance costs and enhance the program's reputation. They recommended implementing these standards through a phased approach or by tailoring them based on housing type and location, acknowledging the diverse needs of different communities. They highlighted that investing in quality would lay a stronger foundation for successful affordable housing initiatives.

Clause4(1)

408. In their proposal, they emphasized the importance of maximizing individual economic freedom and promoting broad engagement by suggesting the establishment of a voluntary affordable housing levy. They argued that a voluntary levy would encourage partnership rather than imposition, thereby building trust and ensuring the long-term sustainability of the program. They highlighted the significance of ensuring that unwilling employees are not subject to levy charges from their salary, further underlining the voluntary nature of the initiative. They believed that this approach would not only empower individuals to contribute based on their willingness but also foster a sense of ownership and commitment toward the goal of affordable housing.

Clause 4(2)(a)

409. They proposed that the housing levy be based on pensionable salary rather than gross salary, citing concerns about the administrative burden faced by employers, particularly those in the SME sector. They also argued that this adjustment would simplify payroll calculations and reduce administrative costs for small businesses. They also mentioned that aligning the levy with pensionable salary ensures consistency with existing systems and promotes fairness in contributions. They noted that this amendment would benefit both SMEs and the program's overall goals by addressing concerns about excluded components and supporting a more efficient implementation of the levy.

Clause 7

410. During their appearance before the Joint Committee, they highlighted the need to eliminate penalties on levies not remitted on time. They emphasized that such penalties would only add to the compliance pressure on employers, leading them to operate with a minimum workforce to mitigate expenses and statutory risk obligations.

Joint Committee's Observation

The Committee agreed with the stakeholders and noted that the penalties in the Tax Procedures Act will apply.

Clause 10

411. They proposed that the Board revise the allocation of funds to prioritize the construction of green affordable buildings certified under Excellence in Design for Greater Efficiencies (EDGE). They argued that this amendment would result in significant long-term cost savings, enhance environmental sustainability, boost resident well-being, and open up new economic avenues.

Clause 12(3)(e)

412. They also proposed expanding the board to include a minimum of three representatives from the building industry. They argued that this adjustment would enhance decision-making, foster a comprehensive understanding of issues, and improve stakeholder representation. They highlighted that an expanded board would harness diverse expertise, leading to improved project outcomes and program effectiveness.

Joint Committee's Observation

The Committee noted the stakeholder comments however, as currently provided the board is well represented as provided in Clause 12(3). Further Clause 18 of the Bill provides an opportunity for the board to co-opt members to assist the board in their areas of expertise

Clause 33(2)(b)

413. They proposed amending the clause to incorporate a requirement that any forfeited unit would undergo assessment, with any depreciation added to the loan amount. They emphasized that this adjustment is necessary to uphold fairness, financial responsibility, and operational efficiency within the affordable housing program. They argued that this

amendment would safeguard public investment by recovering lost value through the loan amount, incentivizing responsible occupancy, and enhancing transparency in the program's financial management.

The Institute of Certified Public Accountants of Kenya

414. During their submission before the Joint Committee on January 30th, 2024, ICPAK emphasized the need for a review of Clause 2 of the Bill. Specifically, they highlighted the necessity of eliminating ambiguity and misinterpretation regarding the definition of affordable housing under the legislation. They argued that the current definition, which considers any residence if the associated rent or mortgage payment is less than 30.0% of a person's monthly income, requires clarification to ensure a clear and precise understanding of what qualifies as affordable housing

Joint Committee's Observation

The Committee agreed with the stakeholders' view

Clause 4(2)(a)

415. They suggested that the Levy, set at a rate of 1.5% of the employee's gross income, should not apply to personal income. Instead, they recommended that Parliament allocate funds for housing separately from the payroll. Furthermore, they proposed making the Levy voluntary and basing it on basic salary rather than gross salary, with the introduction of a cap. They also emphasized the importance of calculating PAYE on income minus the levy to avoid double taxation, aligning with the Employment Act's 1/3 rule and international best practices to prevent such occurrences, which they deemed as tantamount to double taxation.

Clause 4(3)

416. They raised concerns regarding the scope of the Affordable Housing Levy, specifically questioning whether it would apply to all individuals in Kenya, including both residents and non-residents. They sought clarification on whether non-residents who accrue benefits within the jurisdiction of Kenya would also be subject to the levy. They emphasized the importance of clarity regarding the applicability of the levy to ensure fairness and transparency in its implementation.

Clause 5(b)

417. ICPAK advocated for the exemption of employers from the deduction and remittance of an equivalent amount deducted from the employee's gross income. They argued that the current high cost of doing business in Kenya could potentially deter investors, and implementing such a deduction might exacerbate this situation. They emphasized the importance of considering the economic impact on businesses and the broader investment climate in Kenya when making decisions about mandatory deductions from employees' incomes.

Joint Committee's Observation

The Committee noted the Concerns of the stakeholders, however, noted that the matching of employer contributions will be a tax-deductible expense in the computation of income tax

Clause 7

418. ICPAK proposed an amendment to Clause 7 by reducing the penalty from 3 percent to 1 percent. They argued that this adjustment would align with the provisions of the Tax Procedures Act 2015 and ensure consistency in penalty structures across different regulations. Additionally, they emphasized that in the current economic environment, the existing penalty rate could exacerbate the financial strain on businesses. Therefore, they recommended a lower penalty rate to alleviate this burden and support businesses facing economic challenges.

Joint Committee's Observation

The Committee agreed with the stakeholders and noted that the penalties in the Tax Procedures Act will apply

Clause 11(a)

419. The stakeholder proposed the deletion of Clause 11(a) and reallocating the entire 30% to specific areas: 10% for slum and informal settlement upgrades and 20% for the Affordable Housing Project Fund. Alternatively, they suggested removing the prescriptive allocations altogether. Regarding the National Housing Corporation, they asserted that it is a business entity whose profits are not distributed to employees. Therefore, they argued, employees have no obligation to contribute to a corporation from which they do not directly benefit. They emphasized the need to align contributions with tangible employee benefits to ensure fairness and transparency in the levy's implementation.

Joint Committee's Observation

The Committee noted the stakeholder proposals, however, the Committee observed that the percentages of the allocations will be determined by the Board on-demand basis

Clause 11(d)

420. ICPAK proposed the deletion of paragraph d of Clause 11. They argued that empowering and adequately staffing the secretariat of the Fund to collect the levy directly would help avoid additional administrative expenses associated with involving third parties. They stressed the importance of minimizing compliance costs for businesses and administration costs for the government to uphold tax principles of efficiency. By streamlining the collection process within the Fund's secretariat, they aimed to enhance operational efficiency and reduce unnecessary financial burdens on both businesses and the government.

Clause 12(d) and (e)

421. The stakeholder proposed inserting a new paragraph (iv) under (d) as follows:
"Two shall be nominees of the Institute of Certified Public Accountants of Kenya (ICPAK)."
422. Additionally, ICPAK proposed the amendment of Clause 12(e) to read,
"two persons, not being public officers, appointed by the cabinet secretary and who shall possess qualifications in the built environment, real estate, land economics, or law."
423. They emphasized that since the fund involves financial matters, the statutory body mandated by law to advise on finance and accountability should have two slots on the board. They argued that this provision would ensure the availability of financial expertise necessary for the effective administration of the fund."

Joint Committee's Observation

The Committee noted the stakeholder comments however, as currently provided the board is well represented as provided in Clause 12(3). Further Clause 18 of the Bill provides an opportunity for the board to co-opt members to assist the board in their areas of expertise

Clause 33

424. The stakeholder further proposed an amendment to section 33(1) to read:

"An allottee may make an application to the respective agency requesting a change of an affordable housing unit upon attaining 10 years occupancy of the housing unit and meeting the requirements set by the agency."

425. They emphasized that this amendment aims to safeguard against irregular selling or change of ownership of the units upon completion.

Joint Committee's Observation

The committee noted the concerns of the stakeholders but the Committee had the view that this would violate Article 40 of the Constitution on the right of property.

Earnest and Martin Associates

426. In written memoranda dated 30th January 2024, Ernest and Martin Associates submitted as follows

Clause 4(2)(a)

427. Proposed amending this section by deleting the word "or" and replacing it with "and." They explained that the current wording implies that either income source (a) or (b) is subject to the Affordable Housing Levy, which they deemed unfair and lacking uniform application.

Joint Committee's Observation

The Committee noted the concern of the stakeholder but noted that clause 5 of the Bill should be amended to exempt any business or company that complies with clause 5 not to be liable to pay the levy under clause 4(2)(b) of the Bill.

Clause 4 (2) (b)

428. They proposed an amendment to Clause 4 (2) (b) to clarify how income taxable under this Clause should be computed. They expressed concern that the current wording does not specify whether an individual's income includes sources other than employment income. Additionally, they questioned the meaning of "gross income" and raised the possibility of it being another form of turnover tax under section 12(c) of the Income Tax Act. They emphasized the need for clarity and specificity regarding the computation of taxable income to ensure understanding and consistency in implementation.

Joint Committee's Observation

The Committee noted the concern of the stakeholder but noted that clause 5 of the Bill should be amended to exempt any business or company that complies with clause 5 not to be liable to pay the levy under clause 4(2)(b) of the Bill.

Clause 4(3)

429. They emphasized the necessity of clarifying whether all individuals residing in Kenya should pay the Affordable Housing Levy. They raised concerns about the ambiguity surrounding the levy's scope, particularly regarding non-residents who might benefit within Kenya's jurisdiction. They stressed the importance of providing clear guidance to ensure equitable participation and compliance with the levy's requirements. Additionally, they highlighted the need for transparency in implementing the Affordable Housing Levy to avoid confusion among affected individuals about their obligations.

Clause 5(2)

430. They proposed an amendment to Clause 5(2) by deleting paragraph (b). They expressed concerns that Parliament's imposition of numerous taxes on employers was negatively impacting employment in Kenya. They emphasized that each new employee incurred increased labor costs due to these additional levies. Furthermore, they noted that the ease of doing business in Kenya was rapidly deteriorating as a result of the frequent introduction of new taxes. They highlighted the need to address these issues to support employment growth and improve the business environment in the country.

Joint Committee's Observation

The Committee noted the concern of the stakeholder but noted that clause 5 of the Bill should be amended to exempt any business or company that complies with clause 5 not to be liable to pay the levy under clause 4(2)(b) of the Bill.

Clause 7

431. The Associate proposed the deletion of the word "three" and replacing it with "one" in the context of the 3 percent penalty monthly. They argued that a 3 percent penalty was too high and should be reduced to 1 percent to align with the provisions of the Tax Procedures Act. They emphasized the need for consistency in penalty rates across different regulations to ensure fairness and compliance.
432. In addition, they proposed adding a new subsection (2) stating,

"Disputes under this Act, about the levy imposed under Section 4, shall be administered by the Tax Procedures Act."

433. Further, the stakeholder proposes adding a new subsection
'disputes under Section 7 shall be administered by the Tax Procedures Act.'
434. They emphasized the importance of administering disputes related to the levy imposed under Section 4 and Section 7 under the procedures outlined in the Tax Procedures Act to ensure consistency and clarity in resolving conflicts.

Joint Committee's Observation

The Committee agreed with the stakeholders and noted that the penalties in the Tax Procedures Act will apply

Clause 12

435. They proposed the deletion of Clause 12 and replacing it with the following words:
The National Housing Corporation established under the Housing Act shall do or perform all things or acts for the furtherance of the provisions of this Act.'
436. This is merging the National Housing Corporation and the Affordable Housing Board into one entity to manage all activities under the two Acts. They emphasized that this consolidation would ensure synergy in management, avoid duplication of roles, and reduce costs. They pointed out that having two separate CEOs, for example, is unnecessary. Furthermore, they highlighted that housing development is a devolved function, underlining the importance of streamlining and centralizing management for effective implementation.

Clause 13(1)

437. They proposed deleting the words *'the objects and purpose for which the board is established is to'* and replacing them with *'the objects and purpose for the National Housing Corporation for purposes of this Act shall be.'* They explained that this amendment aimed to grant the powers under this Act to the National Housing Corporation. This aims to streamline authority and ensure effective implementation of the Act.

Joint Committee's Observation

The Committee noted the concerns of the stakeholders but was of the view that as currently crafted the objective of NHC is to provide loans and grants of public money for

the construction of dwellings. On the other hand, the objective of the Affordable Housing Bill is to provide a legal framework and a funding mode for the provision of affordable housing to Kenyans. Therefore, the Act and the Bill complement each other through a structured way of giving effect to Article 43(1)(b) of the Constitution, which provides that every person has a right to access adequate housing and reasonable standards of sanitation

Clauses 31,32,33,34,35,36,37 and 38

438. They proposed deleting the words '*relevant agency*,' '*an agency*,' or '*the agency*' and replacing them with '*National Housing Corporation*.' They explained that this amendment intends to specifically designate the National Housing Corporation as the responsible entity within the context of the Act. In addition, it aims to ensure clarity and accountability in the implementation of relevant provisions."

Joint Committee's Observation

The Committee noted the concerns of the stakeholders but was of the view that as currently crafted the objective of NHC is to provide loans and grants of public money for the construction of dwellings. On the other hand, the objective of the Affordable Housing Bill is to provide a legal framework and a funding mode for the provision of affordable housing to Kenyans. Therefore, the Act and the Bill complement each other through a structured way of giving effect to Article 43(1)(b) of the Constitution, which provides that every person has a right to access adequate housing and reasonable standards of sanitation

Clause 43

439. They proposed amending this section to amend the Housing Act to provide necessary modifications for the National Housing Corporation to give effect to the objects of this Bill.

Joint Committee's Observation

The Committee noted the concerns of the stakeholders but was of the view that as currently crafted the objective of NHC is to provide loans and grants of public money for the construction of dwellings. On the other hand, the objective of the Affordable Housing Bill is to provide a legal framework and a funding mode for the provision of affordable housing to Kenyans. Therefore, the Act and the Bill complement each other through a

structured way of giving effect to Article 43(1)(b) of the Constitution, which provides that every person has a right to access adequate housing and reasonable standards of sanitation

Oxygene Marketing Communication Limited

440. During their appearance before the Joint Committee on 30th January 2024 they submitted as follows:

Clause 2

441. The stakeholder recommended deleting Paragraph (b) from the definition of a collector. They argued that this amendment is necessary to ensure prudent management and accountability of the fund by having a single collector.

Joint Committee's Observation

The Committee noted the concern by the stakeholder and was of a different view that the collector expanded to cater to unique circumstances where any other person be empowered to collect funds under the Act

442. In addition, they proposed deleting the words '*Affordable Housing Board*' and replacing them with 'the National Housing Corporation.' They argued that creating the Affordable Housing Board would lead to a duplication of roles, as the fund should be managed by the existing National Housing Corporation. They emphasized the importance of streamlining responsibilities to avoid redundancy and ensure efficient management of resources."

Joint Committee's Observation

The Committee noted the concerns of the stakeholders but was of the view that as currently crafted the objective of NHC is to provide loans and grants of public money for the construction of dwellings. On the other hand, the objective of the Affordable Housing Bill is to provide a legal framework and a funding mode for the provision of affordable housing to Kenyans. Therefore, the Act and the Bill complement each other through a structured way of giving effect to Article 43(1)(b) of the Constitution, which provides that every person has a right to access adequate housing and reasonable standards of sanitation

Clause 4(3)

443. They proposed deleting the word '*ninth*' and replacing it with the word '*fifteenth*.' They noted that this amendment was necessary to reduce instances of penalty imposition under Clause 7, particularly for organizations such as the public sector, where employees may not receive their salaries promptly at the end of the month. They provided examples of medical workers who often face delays in salary payments. Therefore, extending the deadline to the fifteenth of the month would provide organizations with more time to comply with the levy requirements and avoid unnecessary penalties.

Joint Committee's Observation

The Committee noted that the Bill seeks to ensure harmonization of the remittance levy with other statutory reduction

Clause 5(a)

444. They proposed deleting the word '*gross*' and replacing it with the word '*basic*.' They argued that deducting from the gross salary significantly reduces the amount of money available for an employee's expenditure, which has a ripple effect on the economy, exacerbating its current condition."

Clause 6

445. They recommended deleting the clause in its entirety. They expressed concern that retaining the clause could create a notion of the levy being discriminatory against a certain group of persons.

Joint Committee's Observation

The Committee noted the concern of the stakeholders but noted that the Bill ought to provide an exemption for the imposition of the levy to cater to unique circumstances including operationalization of clause 4(2)(b) of the Bill.

Clause 8

446. They proposed deleting the word '*Board*' and replacing it with '*the National Housing Corporation (NHC)*.' They highlighted that the NHC is an existing statutory body with established structures in place. Moreover, the NHC already manages the National Housing Development Fund. They noted that creating new boards would be time-consuming and require starting from scratch, whereas utilizing the NHC in the management of the fund would ensure the continuity of projects. They emphasized that the NHC has accumulated expertise in the housing sector over the years, making it well-suited to oversee the fund's operations."

Joint Committee's Observation

The Committee noted the concerns of the stakeholders but was of the view that as currently crafted the objective of NHC is to provide loans and grants of public money for the construction of dwellings. On the other hand, the objective of the Affordable Housing Bill is to provide a legal framework and a funding mode for the provision of affordable housing to Kenyans. Therefore, the Act and the Bill complement each other through a structured way of giving effect to Article 43(1)(b) of the Constitution, which provides that every person has a right to access adequate housing and reasonable standards of sanitation.

Clause 14(1)

447. They proposed expanding the qualifications for appointment to include technical professionals from the built environment. They emphasized that this addition would enhance professionalism in the management of the fund. By including individuals with technical expertise in areas related to the built environment, such as architects, engineers, and urban planners, they aimed to ensure that the fund's operations are guided by a comprehensive understanding of technical aspects relevant to housing development. Further, it would contribute to more effective decision-making and project management within the fund."

Joint Committee's Observation

The Committee noted the stakeholder comments however, as currently provided the board is well represented as provided in Clause 12(3). Further Clause 18 of the Bill provides an opportunity for the board to co-opt members to assist the board in their areas of expertise.

Clause 34

448. They proposed expanding the borrowing options to include other means such as Saccos and financial institutions. They emphasized that this expansion would ensure financial inclusivity, particularly for individuals who prefer Sharia-compliant financial institutions due to Islamic religious beliefs. Including Saccos and banks as additional borrowing sources, will increase the number of eligible applicants who can afford to raise the 10 percent deposit from their savings. This, they argued, would enhance accessibility to housing financing and promote broader participation in the affordable housing program."

Clause 35(3)

449. They proposed that the agency have to give written reasons to the applicant as to why their applications have been rejected. They emphasized that this measure is under the right to access information stipulated in Article 35 of the Constitution. Additionally, they argued that providing written reasons for rejection would further assist the applicant in understanding the decision-making process and help them make more informed decisions when reapplying. This is crucial for fostering trust and accountability within the application process.

Joint Committee's Observation

The Committee agreed with stakeholder concerns.

Clauses 36(a) and (b)

450. They proposed reducing the loan interest rate from 3 percent to 1.5 percent for the social housing units and affordable housing units. They emphasized that these two categories of units are targeted towards individuals with low incomes. Therefore, they argued that a 3 percent interest rate is high and could potentially lead to an increase in the number of defaulted loans. Further, they noted that the interest rate of 1.5 percent, aims to make housing loans more affordable for low-income individuals and reduce the risk of loan defaults

Joint Committee's Observation

The Committee noted the stakeholder's concern and observed that the provision of interest rates should be addressed in Regulations if need be and further recommended on deletion of the clause.

Clause 40(a)

451. They proposed that this offense should fall under the Anti-corruption and Economic Crimes jurisdiction. Alternatively, they suggested that the penalty should be increased to discourage misappropriation of the Fund or its assets. They expressed concern that the current penalty, a fine not exceeding Ksh10,000,000, may not be commensurate with the severity of misappropriated funds. By proposing these changes, they aimed to ensure stronger deterrence against corruption and financial misconduct within the Fund, aligning penalties more closely with the potential impact of misappropriation.

Joint Committee's Observation

The Committee agreed with the stakeholders.

Clause 42(2)

452. They proposed regulations or provisions on green building be included, such as the construction of housing units and other social amenities using sustainable technologies. They emphasized that incorporating sustainable practices in construction would ensure that the projects are environmentally friendly and respond to the call for climate action. By implementing green building standards, they aimed to promote sustainability and reduce the ecological footprint of the housing projects and associated amenities.
453. They also proposed provisions or regulations concerning the management framework of the housing units and related social amenities upon occupation by residents. They noted that the current Bill is silent on the management of common areas and facilities, such as sewerage systems, among others. They emphasized the importance of establishing clear guidelines for the management of these shared spaces and amenities to ensure proper maintenance and functionality for the benefit of residents.

Kenya Export Floriculture, Horticulture and Allied Workers Union

454. They presented their submission to the Joint Committee on January 30th, 2024, as follows:
Clause 2 (a) (b) (c)

455. They proposed changing the description of affordable housing units from *'plinth area'* to simpler terms such as *'one room,' 'double self,' 'studio,' '1 bedroom,' '2 bedroom,'* or *'3 bedroom.'* They highlighted that the term *'plinth area'* is commonly used by experts in the construction industry and for marketing purposes, but it may not be easily understood by the general public. By using more straightforward descriptions, they aimed to make the concept of affordable housing units more accessible and understandable to everyone, including those not familiar with technical construction terminology.

Joint Committee's Observation

The Committee noted the stakeholder's concerns but was of a different view that the proposed use of terms such as *'one or two bedroom'* does not specify the measurements of the affordable housing units.

Clause 4 (3)

456. They highlighted the need for clarity regarding the collector of the affordable housing levy in this section of the bill. They emphasized that it is essential to specify in

the legislation who the collector is or in whose custody the deductions and payments of the affordable housing levy should be remitted, similar to the clear mandates established for institutions like NHIF or NSSF. They pointed out ongoing issues in courts regarding whether KRA has the mandate to collect the housing levy, underscoring the necessity of clarifying this aspect within the bill to avoid ambiguity and ensure proper implementation.

Joint Committee's Observation

The Committee observed that clause 2 of the Bill defines who the collector is.

Clause 7

457. They proposed amending this clause to exempt employers who delay remitting the affordable housing levy on time due to delays in disbursements from the National Treasury from any form of sanctions. They emphasized the importance of considering external factors beyond employers' control, such as delays in fund disbursements, which could affect their ability to meet levy remittance deadlines. This will ensure fairness and alleviate undue penalties in situations where delays are caused by external circumstances

458. They proposed amending this clause to exempt employers who delay remitting the affordable housing levy on time due to delays in disbursements from the National Treasury from any form of sanctions. They emphasized the importance of considering external factors beyond employers' control, such as delays in fund disbursements, which could affect their ability to meet levy remittance deadlines. They further underscored that county governments, parastatals, ministries, and all government agencies rely on finances from the treasury to pay salaries. Therefore, employers in these sectors should not be punished for delays in remittance caused by financial constraints at the Treasury, which are beyond their control

Joint Committee's Observation

The Committee agreed with the stakeholders and noted that the penalties in the Tax Procedures Act will apply.

Clause 12 3(d) (ii)

459. They advocated for an increase in trade union representation to better reflect the diverse interests of workers in Kenya. They noted that while the Central Organization of

Trade Unions (COTU) represents a significant number of affiliate trade unions, there are over 40 trade unions not affiliated with COTU. Similarly, they highlighted that the Federation of Kenya Employers (FKE) represents only a portion of employers in the country, leaving out many others.

460. Therefore, they suggested increasing trade union representation to two persons, one from COTU and one from trade unions not affiliated with COTU, appointed by the Cabinet Secretary from names submitted by non-affiliated trade unions. Additionally, they proposed increasing employers' representation to two nominees, one from FKE and one appointed by the Cabinet Secretary from names submitted by groups of employers not affiliated with FKE. They justified these changes by emphasizing that workers and employers, as the majority contributors to the affordable housing levy, should have enhanced representation on the board to ensure their interests are adequately represented.

Joint Committee's Observation

The Committee noted the stakeholder comments however, as currently provided the board is well represented as provided in Clause 12(3). Further Clause 18 of the Bill provides an opportunity for the board to co-opt members to assist the board in their areas of expertise

Clause 12(3)(e)

461. They suggested that the three persons nominated for the board could be selected from individuals presented by NGOs, trade unions not affiliated with COTU, and employers not affiliated with FKE. They emphasized that these nominees need not necessarily be professionals in the specified fields outlined in the proposed sections 12(3)(e), as the board would recruit professionals to provide technical and expert services. They argued that the affordable housing program must be perceived as widely owned, with representation that equally caters to both government and public interests. They expressed concern over the perceived skewed representation on the board as proposed in the bill, which only allocates two representatives to the actual contributors to the fund, leaving them with a minority representation

Joint Committee's Observation

The Committee noted the stakeholder comments however, as currently provided the board is well represented as provided in Clause 12(3). Further Clause 18 of the Bill

provides an opportunity for the board to co-opt members to assist the board in their areas of expertise.

Clause 12(5)

462. They highlighted that the current mode of appointment outlined in Section 12(5) does not foster cohesion and a sense of purpose among board members. To address this issue, they proposed that board members should be appointed simultaneously. However, they suggested that incoming board members should be appointed at least 6 months before the expiry of the term of the outgoing board. This timeline would allow for sufficient orientation and handing over processes, ensuring a smooth transition and continuity of operations within the board.
463. They emphasized the importance of ensuring that each board has a clear sense of purpose and deliverables during their term of office. They stressed that this clarity would enable the measurement and appraisal of each board's performance at the end of their term based on actual achievements. These deliverables and objectives for each term will make the board members accountable for their actions and decisions, ultimately contributing to the effectiveness and success of the affordable housing program.

Clause 15(1)

464. They expressed the view that it would be desirable for a board to have a five-year term and be eligible for reappointment. They argued that this longer-term would provide the board with sufficient time to develop strategies and oversee their implementation effectively. They noted that a three-year term may not be adequate for the board to see through meaningful deliverables, particularly in terms of large-scale housing units. Therefore, extending the term to five years would allow for greater continuity, stability, and the opportunity to achieve substantial progress in the affordable housing program.

Joint Committee's Observation

The Committee noted the stakeholder's proposal but was of a different view that the three-year tenure was in line with the Mwongozo Code of Governance.

Clause 30

465. They raised concerns regarding the eligibility criteria outlined in Section 30, particularly regarding individuals who are not contributors to the housing fund. They argued that such individuals may have the financial means to afford the deposit and thus

enjoy an unfair advantage over workers and employers who are contributors to the fund. To address this issue and ensure fairness, they proposed amending the eligibility criteria to include a provision that individuals qualify to be allocated an affordable housing unit only if they are Kenyan citizens, at least eighteen years of age, hold a Kenyan identity card, and are contributing members to the affordable housing fund, among other requirements. They emphasized the need to tie benefits from the affordable housing units directly to contributions made to the fund, addressing concerns raised by workers about the fairness of the allocation process

Clause 31 (2) (a) (b) (c) & (d)

466. They identified a gap in Subclause 2 regarding the requirement for proof of contributions made to the housing fund during the application for the allocation of an affordable housing unit. To address this gap and ensure transparency in the allocation process, they proposed enhancing Subclause 2 to include proof of contribution to the fund as a requirement during the application process. However, they also suggested incorporating a provision, akin to affirmative action, to exempt people with disabilities and other needy groups from contributions. They emphasized the importance of assuring contributors to the fund that their contributions will be considered and prioritized in the application process for affordable housing units.

Joint Committee's Observation

The Committee noted the concerns of the stakeholders but was of the view that the levy imposed is a financing tool for affordable housing but not a guarantee for the allocation of housing units.

Clause 38

467. They proposed specifying that a person who is a contributing member to the Housing levy and wishes to make separate voluntary savings to pay a deposit for an affordable housing unit shall have their voluntary savings refunded only for that purpose if not allocated a housing unit. However, they emphasized that this refund should not include the monthly payments made to the fund as a levy, which qualifies the person to be eligible for an affordable housing unit. They highlighted the importance of maintaining equity and non-discrimination in the treatment of all contributors and expected beneficiaries of the affordable housing units, ensuring fairness in the allocation process.

Joint Committee's Observation

The Committee noted the concerns of the stakeholders but observed that clause 38(4) provides the option for a person who has made a voluntary saving and has not been allocated an affordable housing unit to withdraw his/her savings.

Mwangi and Kamwara Associates

468. During their appearance before the Joint Committee on 30th January 2024, they submitted as follows:

469. Firstly, they proposed renaming the Bill's long title to align with Article 43(1)(b) of the Constitution of Kenya, 2010, emphasizing the provision of housing and sanitation standards. Additionally, they recommended amending the Bill to cover Article 43(1)(d) and (f) of the Constitution of Kenya, 2010, and including reasonable sanitation standards in the Bill's objectives to fully comply with Article 43(1)(b) of the Constitution.

Joint Committee Observation

The Committee agreed to the stakeholder's proposal.

470. They further recommended converting the levy to a refundable contribution fund and utilizing Public Private Partnerships (PPP) to support large-scale supply of affordable homes. They proposed making serviced land available to private developers through PPP and sourcing funds for the program from relevant organizations. Furthermore, they suggested increasing mass awareness of the Affordable Housing Project and including provisions to incentivize the public to join the program.

471. They also proposed refunding contributions at retirement as per the prevailing Retirement Benefits Authority (RBA) guidelines and ensuring equal opportunities in the allocation of affordable houses on both rental and acquisition basis. Lastly, they proposed a review of the penalty of 3 percent on total unpaid amounts to be remitted to the fund to 1 percent and reallocating the 30 percent and 36 percent currently allocated to the National Housing Corporation and the State Department, respectively, to slum/informal settlement upgrades, affordable housing project fund, or removing the prescriptive allocations altogether.

Joint Committee's Observation

The Committee agreed with the stakeholders and noted that the penalties in the Tax Procedures Act will apply. In addition, the Committee noted the stakeholder proposals, however, the Committee observed that the percentages of the allocations will be determined by the Board on a demand basis.

National Housing Corporation (NHC)

472. They appeared before the Committee on 1st February 2024 and submitted as follows:

Clause 2 (1)

473. The Corporation presented its recommendation to the committee, noting a limitation in the current definition of affordable housing which does not account for low-income earners who may pool their resources to qualify for affordable housing. They proposed amending the definition to include household income alongside personal income, enabling a more inclusive approach. This adjustment, they argued, would better reflect the economic realities of low-income households and allow for intergenerational ownership of affordable units. Furthermore, they suggested defining household income and referencing the Head of Household for funding continuity purposes.

474. In addition, the Corporation proposed expanding the current definition of affordable housing to better accommodate low-income earners who may pool their resources. According to the Corporation,

475. In addition, the Corporation proposed expanding the definition of affordable housing to include household income, in addition to personal income, allowing for a more inclusive assessment. That is

'housing that is adequate and costs not more than thirty percent of the income of a person or household per month to rent or acquire.'

476. Furthermore, the Corporation suggests specifying the 'Head of Household' in the definition to ensure consistent funding allocation.

Clause 2 (2)

477. The Corporation proposed amendments to the definitions provided under Clause 2(2)(a), (b), and (c) to incorporate household income criteria. According to the Corporation's recommendations, the definitions should be adjusted to read as follows:

478. By this Bill, an *'affordable housing unit'* is defined as follows:

'A social housing unit with a plinth area of between eighteen and thirty square meters targeted at a person or household whose monthly income is below twenty thousand shillings.'

'... targeted at a person or household whose monthly income is between twenty thousand and one hundred and forty-nine thousand shillings; or'

'... targeted at a person or household whose monthly income is over one hundred and forty-nine thousand shillings.'"

Clause 11

479. The Corporation raised concerns regarding the allocation of funds from the Affordable Housing Levy, as outlined in Clauses 11(b) and (c) of the Bill, for purposes not explicitly stated in the Finance Act No. 4 of 2023. According to Section 84 of the Finance Act, the purpose of the levy is clearly defined as providing funds for the development of affordable housing, associated social and physical infrastructure, and affordable home financing for Kenyans. The Corporation argued that the proposed allocations towards slum upgrading, maintenance, rehabilitation, and institutional affordable housing programs do not align with the primary purpose of the Fund as mandated by the Finance Act.
480. Furthermore, the Corporation highlighted that Clause 10(1) of the Bill outlines the purpose of the Fund, emphasizing the development of affordable housing and associated infrastructure. However, there is no mention of maintenance, rehabilitation, or specific allocations for slum upgrading within this purpose. The Corporation stressed that slum upgrading is a component of social housing, which is integral to affordable housing according to the Bill's definitions.
481. The Corporation also raised concerns about the allocation of funds to the State Department for Housing, Urban Development (SDHUD) for slum upgrading, considering that funds for such purposes are already provided for under the Kenya Slum Upgrading, Low-Cost Housing, and Infrastructure Trust Fund. They argued that allocating funds for slum upgrading from the Affordable Housing Levy would result in duplicating funding sources and contradict principles of prudent and efficient use of public resources.
482. Moreover, the Corporation criticized the proposed allocation distribution, which assigns a significant portion of funds to SDHUD for slum upgrading and institutional housing, leaving only a small percentage for the Corporation, the principal implementer of the affordable housing program. They proposed a revised allocation scheme based on stakeholder consultations, allocating 96% of the funds to the Corporation to address various housing categories, including social, affordable, and affordable market housing.

Joint Committee's Observation

The Committee noted the stakeholder proposals, however, the Committee observed that the percentages of the allocations will be determined by the Board on a demand basis.

Clause 12

483. The Corporation highlighted discrepancies in the composition of the proposed Affordable Housing Board as outlined in the current version of the Bill. They noted that

while the State Department for Housing, Urban Development (SDHUD) is represented on the Board, the Corporation lacks direct representation despite being placed on the same level as Agencies under Clause 11 of the Bill. To ensure equity and fairness, the Corporation advocated for direct representation on the Board.

484. Furthermore, the Corporation emphasized the importance of including representation from professional bodies in the built environment to enhance the expertise and diversity of perspectives on the Board. They proposed that at least five persons be appointed to the Board from nominees of professional bodies such as the Institute of Surveyors of Kenya (ISK), Architectural Association of Kenya (AAK), Institute of Quantity Surveyors of Kenya (IQSK), Institution of Engineers of Kenya (IEK), and Law Society of Kenya (LSK).
485. Additionally, the Corporation suggested that either a representative from the Council of Governors or a representative from the Ministry responsible for Devolution should also be included as a member of the Board. These proposals aim to ensure a comprehensive and inclusive representation on the Affordable Housing Board, reflecting the diverse stakeholders involved in the affordable housing sector

Joint Committee's Observations

The Committee noted the stakeholder comments however, as currently provided the board is well represented as provided in Clause 12(3). Further Clause 18 of the Bill provides an opportunity for the board to co-opt members to assist the board in their areas of expertise.

Clause 13

486. The Corporation has raised concerns regarding the functions assigned to the Affordable Housing Board, noting that they appear to involve direct involvement in the management, coordination, and supervision of day-to-day activities of agencies. They noted that goes against the Mwongozo Code of Governance for State Corporations, which emphasizes that Boards should limit their role to oversight. The Corporation emphasizes the importance of adhering to governance principles and ensuring that the Board's functions align with established guidelines to maintain transparency, accountability, and effective governance within the affordable housing

Joint Committee's Observation

The Committee agreed with the stakeholder's concern

Clause 21(2)

487. The Corporation noted that the requirement of ten years of experience for the Chief Executive Officer position of the Affordable Housing Board falls short of the expertise needed for effective leadership in the field. They propose amending the requirement to fifteen years of experience to ensure that candidates possess sufficient depth of knowledge and experience in the affordable housing sector.

Joint Committee's Observation

The Committee noted the stakeholder's concerns but observed the 10 years of experience was sufficient.

488. Additionally, the Corporation raised concerns about the narrow scope of eligible candidates, which currently excludes individuals from other relevant fields. They suggest expanding the qualifications to include experience in the built environment and other pertinent fields such as Economics, Law, Finance, Investment, or the banking sector. This would allow for a more diverse pool of applicants with the necessary background and expertise to effectively lead the Affordable Housing Board.

Joint Committee's Observation

The Committee noted the stakeholder concerns however, the Committee observed the need to expand the qualifications for appointment.

Clause 30

489. The Corporation emphasized that the eligibility criteria for individuals to qualify for an affordable housing unit should also apply to households. They proposed amending the wording to ensure clarity and inclusivity, suggesting that the criteria should specify

'A person or a household qualifies to be allocated an affordable housing unit if that person or members of the household are Kenyan citizens who are at least eighteen years of age and hold a Kenyan identity card.'

490. This adjustment, they argue, would ensure that both individuals and households are considered eligible for affordable housing units, promoting fairness and inclusivity in the allocation process.

Clause 31

491. The Corporation also raised concerns regarding the current provisions for applying and allocating affordable housing units, noting potential irregularities that could lead to multiple allocations. They suggested that applications should be made through a

centralized and/or common platform, such as the web-based housing portal 'Boma Yangu' ecosystem, to ensure transparency and prevent duplicative allocations.

492. Furthermore, they proposed that the allocation of units should follow a 'first come first served basis' to uphold the spirit of the affordable housing program in facilitating home ownership for a majority of Kenyans. Additionally, the Corporation recommends that private developers accessing this centralized platform to market their products should pay administration fees, thus contributing to the sustainability of the system

Joint Committee's Observation

The Committee noted the concerns of the stakeholders and noted that clause 42(2)(f) will provide for regulations on the application and integration of technology-based platforms in the administration and management of affordable housing schemes.

Clause 38

493. The Corporation reaffirmed its previous recommendation for the establishment of a centralized and/or common platform for the application and allocation of affordable housing units. They propose that voluntary savings should be directed to this centralized pool, with an appointed institution tasked with administering these savings. Currently, the Corporation manages voluntary savings from contributors on the Boma Yangu platform, highlighting its capability to handle such responsibilities within the proposed centralized system.

Other Observations on the Bill include:

494. The Corporation drew attention to the distinction between taxpayers' contributions and levies, noting that while taxpayers may not always receive identifiable returns, they benefit from living in a society with access to education, healthcare, and safety.
495. In contrast, levies are payments made in exchange for specific services rendered. As an example, the Corporation referenced the Petroleum Development Levy established under the Petroleum Development Fund Act, which is imposed on petroleum fuel consumed by Kenyans to fund road infrastructure without additional charges. With this context in mind, the Corporation proposed structuring the Housing Levy to align with existing levies, ensuring that contributors receive tangible benefits in return for their contributions.

496. Additionally, they highlighted a gap in the Bill concerning the transfer of public land to private sector developers and recommended that Parliament address this aspect, particularly regarding the use and utilization of public land in partnerships with private developers.

497. They noted that public land, as defined in Article 262 of the Constitution and Sections 9(3) of the Land Act, plays a crucial role in the construction of affordable housing. However, the question of land ownership in this context varies depending on the specific circumstances. For instance, National Government Land in counties may be owned by the national government, while land belonging to county governments is owned by the respective county governments.

498. In the case of housing projects, the ownership of the land on which the houses are built would depend on the entity responsible for the development. Transferring land for housing projects typically involves negotiations and agreements between the relevant government bodies, such as the national government, county governments, and private developers. Therefore, addressing the aspect of land transfer, especially concerning public land, requires clear provisions and mechanisms outlined in legislation or policies to facilitate the use and utilization of such land for affordable housing initiatives.

Joint Committee's Observation

The Committee noted that the current land legislations are sufficient to address the concerns of the stakeholder and their provisions need not be replicated in the Bill.

499. The Corporation undertook an analysis of both the Affordable Housing Bill of 2023 and the Housing Act CAP 117, highlighting significant duplications in their provisions. With a focus on cost-effectiveness and streamlined governance, they advocate for integrating the proposed provisions of the Affordable Housing Bill into the existing framework of the Housing Act through minor amendments. By expanding the current Board established under Section 3 of the Housing Act, the Corporation proposed to encompass a broader spectrum of expertise and representation, including professionals from various sectors and key stakeholders such as government officials, trade unions, and employer organizations

500. Furthermore, the Corporation emphasizes the extensive experience and competency of its existing Board, which has been instrumental in managing housing policies and programs for over seven decades. Leveraging this wealth of knowledge and expertise,

they asserted that the expanded Board would be well-equipped to oversee the implementation of the proposed affordable housing program outlined in the Bill. This approach not only ensures continuity and consistency in housing governance but also maximizes the efficient utilization of resources by avoiding the establishment of a separate governing body.

501. In addition to promoting efficiency and resource optimization, the Corporation noted that this will enhance inclusivity and stakeholder engagement within the affordable housing sector. They also noted that including professionals from the built environment, law, and finance, as well as representatives from government and relevant organizations, the expanded Board will foster collaboration and coordination among various stakeholders. This collaborative approach is essential for addressing the multifaceted challenges of affordable housing and ensuring the effective delivery of housing solutions to Kenyan citizens.

Joint Committee's Observation

The Committee noted the concerns of the stakeholders but was of the view that as currently crafted the objective of NHC is to provide loans and grants of public money for the construction of dwellings. On the other hand, the objective of the Affordable Housing Bill is to provide a legal framework and a funding mode for the provision of affordable housing to Kenyans. Therefore, the Act and the Bill complement each other through a structured way of giving effect to Article 43(1)(b) of the Constitution, which provides that every person has a right to access adequate housing and reasonable standards of sanitation.

502. The Corporation conducted a comparison between Section 7 of the Housing Act CAP 117 and Clause 8 of the Affordable Housing Bill, noting striking similarities in their establishment of housing funds. Clause 8 of the Bill proposes the creation of an Affordable Housing Fund to be managed by the Affordable Housing Board, while Section 7 of the Housing Act establishes the National Housing Development Fund under the control of the Corporation.

503. Recognizing the redundancy and potential inefficiencies of maintaining two separate funds, the Corporation proposed utilizing the existing National Housing Development Fund to receive the proposed housing levy. They proposed amending Section 7(3) of the Housing Act to include the housing levy and voluntary savings as additional sources of funding for the National Housing Development Fund. This approach

not only ensures optimal utilization of resources but also streamlines administrative functions by avoiding the establishment and maintenance of a separate fund under the Affordable Housing Bill.

504. The Corporation also examined Section 8 of the Housing Act, which outlines the functions of the National Housing Development Fund regarding loans, grants, and loan repayments by the Corporation. Upon reviewing Clause 10(2) of the Affordable Housing Bill, it became evident that the purposes outlined for the Affordable Housing Fund closely mirror those provided in Section 8 of the Housing Act. In light of this significant overlap, the Corporation argued against the enactment of another law to establish a similar fund, as it would result in unnecessary duplication of efforts and costs. Instead, they advocated for leveraging the existing framework of the Housing Act to accommodate the provisions of the Affordable Housing Bill, thereby ensuring efficient utilization of resources and streamlining administrative processes.

505. In addition, the Corporation noted the absence of clear definitions for crucial terms such as '*affordable housing*,' '*affordable housing scheme*,' '*Fund*,' '*Levy*,' and '*Affordable housing unit*.' Additionally, the Corporation highlighted the need to anchor common platforms like Boma Yangu in the law to streamline eligibility criteria, application procedures, and allocation processes. The Corporation noted that providing comprehensive definitions and integrating common platforms into the legislative framework, aims at enhancing the clarity, transparency, and effectiveness of administering the Levy and implementing affordable housing initiatives in Kenya.

Kenya Tea Growers Association

506. The KTGA in the submissions to the Joint Committee on January 30th, 2024 stated the following:

Clause 5

507. The association proposes replacing the term '*gross salary*' with '*basic salary*' in contributory schemes, arguing that gross salary-based deductions are disadvantageous to employees. They contend that employees already contribute proportionately to Pay As You Earn, and the government should utilize these contributions to provide social services. Moreover, deductions based on gross incomes unreasonably inflate the cost of employment and discourage job creation, according to the Corporation's perspective.

New Proposal

508. The Association proposed an addition to Clause 6(1)(c), suggesting that it should include *'Any employer or category of employers'* to ensure clarity and flexibility in the provision. They emphasized that under the Employment Act, employers are mandated to secure housing needs for employees during their employment tenure, which aligns with the progressive attainment of Article 43(1) rights. They highlighted that employers already providing housing as part of employment effectively contribute to this right over the employment period. To incentivize employers with progressive housing initiatives, the association recommended that those who secure 'affordable housing units' for vulnerable categories of employees as defined in Clause 2 of the Bill should automatically qualify for exemption under Clause 6 of the Bill.

Joint Committee's Observation

The Committee noted the Concerns of the stakeholders, however, noted that the matching of employer contributions will be a tax-deductible expense in the computation of income tax

Mr. John Muthiora Njoroge

509. During his appearance before the Joint Committee, Mr Njoroge stated that the bill if implemented properly, would significantly improve housing standards and bolster the economy. He emphasized its potential to generate employment opportunities for Kenyans, promote economic empowerment, enhance national stability and facilitate infrastructure and architectural growth, thereby setting a benchmark for other nations. He further urged the government to consider the allocation of agricultural land to mitigate the risk of food shortages caused by its current sale. Additionally, he advocated for budgetary allocation to support the housing project, especially for those who struggle to afford homes and maintain a steady income amidst levies.

510. Addressing the water scarcity issue, he proposed subsidizing taxes on water filtration machines to encourage their purchase and facilitate water recycling. Furthermore, he recommended the consolidation of various housing organizations into a single effective state entity to address housing challenges comprehensively. He also called for amendments to legal statutes hindering housing organizations' collaboration with private landowners, advocating for their inclusion in housing development initiatives. Finally, he suggested the establishment of a cooperative society for affordable housing, providing loans to landowners for construction purposes

3.17 NAIROBI COUNTY RESIDENTS

NAIROBI COUNTY RESIDENTS

On January 29th, 2024 at the Mini Chamber, County Hall the following Nairobi resident submitted to the Joint Committee.

Mr. Lukas Otieno

511. Mr Lukas Otieno raised key concerns regarding housing policies and practices. He emphasized the need for differentiated pricing strategies for unit deposits and rent across different regions of the country, recognizing the varying economic conditions and affordability levels.

512. Further, he sought clarification on the distinction between affordable housing initiatives and slum upgrading efforts, seeking clarity on the allocation of funds to the Boma Yangu project and whether it constituted double taxation.

Representative of Persons with Disability (PWD)

513. Mr. Kakai Japheth, representing Persons With Disabilities (PWDs), felt that the 10% deposit required to purchase housing units was excessively high, especially for unemployed PWDs.

Joint Committee's Observation

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations.

514. To address this issue, he proposed guaranteed allocation of units specifically for PWDs, ensuring that tendering processes prioritize PWD participation in housing projects. Additionally, Mr. Kakai emphasized the importance of ensuring that the housing provided is PWD-friendly, secure, and easily accessible, highlighting the need for inclusive and accessible housing solutions that cater to the unique needs of PWDs.

Joint Committee's Observation

The Committee noted the concerns of the stakeholder, however, Committee while agreeing with the stakeholder's sentiments noted that Section 21 of the PWDs Act provides that persons with disabilities are entitled to a barrier-free and disability-friendly environment to enable them to have access to buildings, roads and other social amenities among others guides constructions of infrastructure. In addition, the Committee noted that Clause 31(3) obligates the Board to give preference to persons with disabilities, marginalized persons among others in the allocation of Affordable Housing Units.

Hon. Sonia Kaur Birdi Sunjee representing Rhapta Road residents

515. Hon. Birdi highlighted a fundamental question regarding the target beneficiaries and the rationale behind the affordable housing initiatives. Expressing the willingness of many private landowners to contribute their land for housing schemes, she urged the Joint Committee to consider involving these private developers in the project.
516. Additionally, she advocated for inclusivity within the Affordable Housing Board, proposing a designated seat for a representative from Marginalized communities and Persons With Disabilities (PWDs), ensuring their voices are heard and needs addressed in housing planning and implementation.

Joint Committee's Observation

The Committee agreed with the stakeholders and recommended the Bill be amended to provide for consideration of PWDs in the nomination of Board members.

517. She suggested amending the terminology used, emphasizing the importance of replacing the word 'slum' with a more respectful and dignified term, reflecting a more compassionate and respectful approach to addressing housing challenges in marginalized communities

Mr David Livingstone, Human Rights Defender

518. Mr. David Livingstone, representing a group advocating for housing reform, emphasized the need for collaborative efforts between the National Government and County Governments in housing projects. He highlighted concerns regarding land encroachment and grabbing, particularly by influential individuals within the government, which impedes the construction of affordable housing.
519. Mr. Livingstone urged for the repossession of such encroached land to facilitate the development of affordable housing units. He underscored the importance of coordinated actions and innovative strategies to address the challenges hindering the provision of affordable housing in the country.
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Joint Committee's Observation

The Committee noted the concerns raised by the stakeholders and recommended the inclusion of a mechanism for engagement between County governments and the national government.

Representative of Jua Kali-Ngong Road

520. The stakeholder proposed digitizing the contribution to the levy to encourage participation from the informal sector, recognizing the need for broader involvement in funding the Affordable Housing Fund.
521. Additionally, he advocated for allocating 40% of the funds for local supplies, emphasizing the importance of supporting local industries including businesses and the Jua Kali Sector, recognizing its significance in the informal economy.

Joint Committee's Observation

The Committee agreed to include a provision to provide for the use of locally available materials in the development of affordable housing units.

522. To address concerns about inequality, the stakeholder recommended a provision to prevent wealthy individuals from exploiting the system by purchasing more than one housing unit.

Joint Committee's Observation

The Committee noted stakeholders' concerns about potential abuse of the provision and recommended its deletion. Further, it also recommended that the Bill be amended to provide safeguards for instance one KRA pin one house, or any other unique identifier.

523. Finally, they stressed the importance of ensuring proper social amenities, particularly improved sewerage systems, to enhance the overall quality of housing projects and communities.

Joint Committee Observations

The Committee noted that the Bill already provides for the construction of associated social and physical infrastructure. Further, clause 2 of the Bill provides for the definition of an affordable housing scheme which includes social amenities, infrastructure, or services.

Mr. Vincent Ombaka

524. Mr. Vincent Ombaka, a member of the Law Society of Kenya voiced his concerns by specifically pointing out that Clauses 2(a) and (b), 4, and 5, when read together, seemingly mandate contributions from employees while leaving it voluntary for the unemployed. He argued that such clauses could be considered discriminatory, as they impose financial obligations on one group while exempting another based on

employment status. Mr. Ombaka emphasized the need for equitable treatment and urged the Joint Committee to review these clauses to ensure fairness and non-discrimination in the implementation of the proposed policy.

525. Further, the Advocate Ombaka emphasized the crucial necessity of adhering to proper processes in legislative drafting. He noted that while good intentions are laudable, they must be coupled with robust procedures to yield effective outcomes for Kenya. He highlighted three parameters for assessing the Affordable Housing Bill: alignment with existing law, conformity with the Constitution of Kenya, and practical feasibility in implementation. Within this framework, he raised the following key concerns.

1. Firstly, he questioned whether the Bill adequately addressed discrimination against salaried individuals compared to those in self-employment.
2. Secondly, he expressed apprehension regarding the potential contravention of Constitutional requirements related to the disposal of public land.
3. Lastly, stakeholders raised doubts about the realistic achievability of the benefits promised by the Bill, emphasizing the need for a comprehensive examination of its provisions to ensure effectiveness and compliance within the legislative process.

526. In his analysis of the Affordable Housing Bill 2023, Mr Ombaka set out the distinction between access to affordable housing and affordable home ownership, highlighting their mutual exclusivity. He pointed out that while the Constitution of Kenya guarantees the right to accessible and adequate housing, the concept of home ownership in Kenya is complex and deeply intertwined with historical, ancestral, and communal ties.

527. He identified efficiency in land registration, awareness of succession processes, and registration of community land as key factors influencing home ownership. Additionally, he highlighted the urban-centric nature of the affordable housing problem in Kenya, attributing it to rural-urban migration and market failures in the real estate sector. He advocated for government intervention to address these market failures and provide access to affordable housing while cautioning against bundling the issues of affordable housing and home ownership to avoid unnecessary policy burdens.

528. The stakeholder emphasized that the court's ruling regarding the Housing Levy as a tax remains unchanged, emphasizing the need for legislative alignment with this reality unless fundamental structural changes are made. He highlighted the court's ruling that

the levy, as previously implemented, was unconstitutional due to its discriminatory impact on salaried workers, violating constitutional provisions on equitable taxation.

529. He pointed out that while the Bill's provisions may appear to address the discriminatory effects, it fails to adequately address the administrative aspects of tax collection, particularly for self-employed individuals. This discrepancy in administrative arrangements effectively renders the payment of the Housing Levy voluntary for self-employed individuals, leading to further discrimination against salaried workers who face mandatory deductions.

530. Additionally, the stakeholder raised concerns about the unequal obligation placed on employers to match contributions for salaried employees compared to the lack of such obligation for self-employed individuals. He cited court precedents indicating that both the purpose and effects of legislation can render it unconstitutional, emphasizing the need for substantive changes rather than cosmetic remedies to address the constitutional concerns surrounding the Housing Levy.

531. Further, he highlighted the inclusion of Clause 6 in the Bill, allowing for potential exemptions at the discretion of the Cabinet Secretary, but was also criticized for potentially exacerbating discrimination without clear parameters for such exemptions. Overall, the stakeholders characterized the bill as attempting to bypass constitutional concerns without addressing the underlying issues of taxation equity and administrative fairness.

532. He noted that Various media reports have indicated that County Governments, as stakeholders, are provisioning public land under their custody for affordable housing projects. The Constitution of Kenya provides clear guidelines on how public land should be managed. Article 62 states that public land is held by county governments in trust for the residents of the county, and certain classifications of public land are held by the national government in trust for the people of Kenya. It stipulates that public land cannot be disposed of or utilized except as specified by an Act of Parliament detailing the terms of disposal or use.

533. He further alluded that the constitutional framework establishes the government as a trustee of public land on behalf of the people, indicating that the government cannot freely dispose of public land without considering the interests of the beneficiaries. Concerns were raised by stakeholders that the cost of land is not being factored into

affordable housing schemes, potentially resulting in the disposal of public land at zero value. He noted that this raises questions about the fairness and legality of such transactions, for the law in Kenya does not provide for the allocation of "free public land."

534. Therefore, stakeholders emphasized the importance of analyzing affordable housing initiatives to ensure that the government recovers the cost of allocated land and that beneficiaries contribute towards the land they acquire through these projects.

535. Further, stakeholders raised concerns regarding Clause 30 of the bill, which outlines the eligibility criteria for beneficiaries of affordable housing schemes. He said that clause, designated in its section with the title "eligibility," implies that affordable housing units will be available to every Kenyan citizen who meets the specified criteria. However, stakeholders argued that this expectation is misleading and impractical given the contributions required and the existing demand for affordable housing. The Bill's reliance on a public taxation scheme for financing the affordable housing scheme while leaving the distribution of houses to market forces raises questions about the legitimacy of expectations among contributors.

536. Additionally, concerns arise regarding priority claims from individuals and employers who contribute to the scheme but may not directly benefit from it. This situation could potentially violate property rights and lead to social upheavals, especially if the most vulnerable in society are excluded from accessing affordable housing units due to the financial eligibility criteria outlined in Clause 31

537. Stakeholders questioned whether the Bill would effectively address the issue of urban slums or simply stimulate a secondary real estate market for cheaper houses, ultimately challenging the practicality and effectiveness of the proposed legislation

Joint Committee's Observation

The Committee noted that the current land legislations are sufficient to address the concerns of the stakeholder and their provisions need not be replicated in the Bill.

Wadau 5K-2MARS(Kikomari) Jua Kali Alliance

538. The Jua Kali Alliance representative pointed out the significance of affordable and social housing in providing opportunities for individuals, particularly those in the informal sector, to access financial inclusion, meaningful occupation, and sustainable incomes.

539. However, the stakeholders highlighted several challenges faced by hustlers, including cash flow constraints, low saving capacity, and obstacles related to the Credit Reference Bureau, which hinder their participation in housing investment under the AHP. They expressed skepticism (doubt) about the lottery-based allocation system, noting that even fully paid-up individuals may still struggle to access housing units at their desired location, time, and price.
540. Additionally, they raised concerns about off-take challenges on the AHP-Boma Yangu Portal, attributing these issues to difficulties with onboarding technologies and inadequate customer care. These challenges, they argued, threaten the scalability and replicability of the program, potentially reducing the market for the housing products and services offered under the AHP.

Representative California (Pumwani) Resident Association

541. The stakeholder proposed that resident associations be represented on the Board, even if on a rotational basis, to ensure community input and representation in decision-making processes.
542. In addition, they suggested a phased structural approach to imposing the levy, allowing for smoother implementation and reduced financial burden on individuals.
543. Further, emphasized the importance of not locating the project in informal settlement areas to avoid exacerbating existing challenges and to ensure sustainable development.
544. Finally, the stakeholders recommended renaming the initiative from "Affordable Housing" to "Low-Cost Housing," as they believed the term "affordable" did not accurately reflect the target groups' economic realities. These suggestions will enhance community involvement, alleviate financial burdens, promote sustainable development, and better align the initiative with the needs of the target demography

Other Nairobi County Residents.

545. The Residents advocated for prioritizing locally registered groups for supplying 40 percent of project materials and suggested reducing the deposit requirement to 4% percent, especially for vulnerable groups such as orphans and single mothers.
546. They emphasized the importance of providing affordable mortgage rates for youth to enable home ownership and access to credit facilities for Jua Kali youth to meet the deposit requirement.
547. Further, residents called for youth representation on the Board to ensure their interests are considered.

Joint Committee's Observation

The Committee agreed with the stakeholders' proposals on the composition of the Board

548. They stressed the need for a robust accountability framework for the fund and emphasized the importance of legally acquiring land for construction to avoid potential conflicts, echoing Mr. Geoffrey Mugo's concerns about the impact on agricultural land.

Joint Committee's Observation

The Committee noted that the current land legislations are sufficient to address the concerns of the stakeholder and their provisions need not be replicated in the Bill.

549. Finally, residents proposed that non-contributors should not be eligible for unit allocation, emphasizing the principle of contribution towards the Affordable Housing project

The Architects Alliance of Kenya

Clause 2(2)

550. The Alliance advocated for an amendment to Clause 2(2) regarding the definition of an affordable housing unit for middle to high-income earners. They proposed that such units should range between eighty (80) and one hundred and fifty (150) square meters in size. Their justification for this amendment was to ensure that middle to high-income households are provided with the opportunity to purchase and own larger housing units that align with their financial capacity. They argued that this would accommodate the needs and preferences of this income bracket, allowing them to access housing options that are commensurate with their earnings

Clause 7

551. The Alliance further proposed a revision to the penalty rate for unpaid amounts. Specifically, they suggested that the penalty rate should be revised downwards to 1% per month of the unpaid amount. They argued that the proposed rate of 3% per month was excessively high and could impose undue financial burden on individuals who may face difficulties in meeting their payment obligations. By advocating for a lower penalty rate, they aimed to strike a balance between enforcing timely payments and ensuring that the penalty remains reasonable and fair for all parties involved in the affordable housing scheme.
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Joint Committee's Observation

The Committee agreed with the stakeholders and noted that the penalties in the Tax Procedures Act will apply.

Clause 11(e)

552. In their submission to the Committee, the Alliance recommended capping the administration fee at one percent and/or specifying the financial period that the fee should cover. They expressed concerns over the current administration fee of two percent, describing it as a significant and potentially excessive amount. They argued that such a fee represents a colossal sum, particularly considering the financial burden it may impose on participants in the affordable housing scheme. Therefore, they urged for a downward revision of the administration fee to ensure fairness and affordability for all involved parties. By proposing these adjustments, they aimed to create a more balanced and equitable financial framework for the administration of the affordable housing program.

Joint Committee's Observation

The Committee noted the concerns of the stakeholder and observed that clause 11(e) uses the word 'upto' which provides for discretion in the allocation of the amount by setting the maximum amount, this could be assessed on a need basis.

Clause 12(3)

553. In their proposal to the Joint Committee, they suggested amending the clause to read as follows:

"(a) a non-executive Chairperson who shall be nominated from amongst the Board members and appointed by the President."

554. They emphasized that the Chairperson should be nominated from within the Board members to foster independence from the Executive. This would ensure that the Chairperson's appointment is based on merit and expertise rather than direct influence from the Executive branch. In addition, it would contribute to the impartiality and effectiveness of the Board in overseeing the affordable housing program.

Clause 12

555. In their proposed amendment to the Joint Committee, the Alliance suggested revising the clause as follows:

"(e) three persons not being public officers, appointed by the Cabinet Secretary and who shall be nominated from the Institution of Engineers of Kenya, the Architectural Association of Kenya, The Institute of Quantity Surveyors of Kenya or any other professional association or institution governing architects."

556. They emphasized the importance of having individuals from the built environment industry spearheading the Affordable Housing project. They argued that members of the

board should possess experience coordinating and leading similar or related projects, highlighting the critical need for industry expertise in effectively leading the Board. By nominating individuals from the built environment sector, they believed the Board would benefit from a comprehensive understanding of how such projects operate and what is required for their success.

Joint Committee's Observation

The Committee noted the stakeholder comments however, as currently provided the board is well represented as provided in Clause 12(3). Further Clause 18 of the Bill provides an opportunity for the board to co-opt members to assist the board in their areas of expertise.

Clause 13(2)

557. In their proposed amendment to the Joint Committee, they proposed adding the following words:

"(m) Offer guidance on matters relating to design, development, and maintenance of affordable housing and the associated physical infrastructure."

558. They also emphasized the importance of expanding the Board's responsibilities to oversee the full life cycle of the affordable housing project. They argued that the Board should not only focus on running the financial and administrative affairs of the Fund but also provide guidance on design, development, and maintenance aspects. By including this provision, they believed the Board would play a more comprehensive role in ensuring the success and sustainability of the affordable housing initiatives, contributing to the overall effectiveness of the program."

Joint Committee's Observation

The Committee noted the proposal by the stakeholder and observed that its functions were adequately captured in the Bill.

Clause 14(2)

559. In their proposed amendment to the Joint Committee, they recommended deleting the phrase "*other than as an ex-officio member.*" Their justification for this amendment is that the criteria set out for qualification to be appointed to the Board should apply uniformly to all members, including ex-officio members. They argued that maintaining consistency in the qualification criteria ensures that all members possess the necessary qualifications and expertise to effectively contribute to the Board's objectives and responsibilities.

Joint Committee's Observation

The Committee noted the concerns of the stakeholders and observed that this provision relates to the appointment of the Chairperson and member of the Board and therefore the proposed amendment is not tenable. Notably, the *ex-officio* member is a member of the staff of the Fund.

Clause 36(c)

560. The Alliance argued for a revision of the interest rate or administrative fee for loans issued as captured in the Bill. Specifically, they highlighted concerns about the high-interest rate of 9 percent for affordable market housing units, particularly when compared to the rates charged for social housing units and affordable housing units. They argued that such a high-interest rate could pose a significant financial burden on individuals seeking housing in the affordable market segment.

Joint Committee's Observation

The Committee noted the stakeholder's concern and observed that the provision of interest rates should be addressed in Regulations if need be and further recommended on deletion of the clause.

561. They also emphasized the importance of including active participation from county governments in the Affordable Housing Bill. Citing the Constitution of Kenya 2010, which assigns housing mandates to County governments, they highlighted the need for meaningful involvement beyond merely having a nominee from the Council of Governors. They proposed the establishment of County Housing Boards to streamline processes related to land allocation for housing projects, develop policies on housing matters at the county level, manage funds allocated for housing projects in each county, and oversee the implementation and execution of these projects. By advocating for the inclusion of County Housing Boards, they aimed to ensure effective coordination and implementation of housing initiatives at the county level, in alignment with the constitutional mandate.
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Joint Committee's Observation

The Committee noted the concerns raised by the stakeholders and observed that the Bill makes provision for the Council of Governors to appoint a member of the board. In addition, the Committee recommended the inclusion of a mechanism for engagement between County governments and the National government.

Gikomba Artisan Traders Association

562. In a memorandum dated 17th January 2024, the Association expressed its support for the Bill. The Association believes that the project will elevate its members, offering them opportunities to benefit from the construction industry.

563. Additionally, the Association pushed for the plan to engage the Jua Kali sector, not only for providing labor on construction sites but also for supplying essential items such as doors, windows, locks, grills, and other construction materials.

KAYLIGHT INDUSTRIES ASSOCIATION

564. Through their memoranda dated 17th January 2024, Kaylight Industries Association conveyed its support for the bill, citing its employment engagement in the Park Road Affordable Housing project as a testament to the benefits of the Affordable Housing Program. The association shared its first-hand experience as a beneficiary of employment opportunities arising from the Affordable Housing Program.

565. They acknowledged the Affordable Housing Program as not only a source of employment but also a pathway for Kenyans to acquire decent and affordable houses.

HAKI YETU ORGANISATION.

566. Through their written memorandum dated 18th December 2023, Haki Yetu Organisation expressed complete rejection of the Bill, deeming it unconstitutional for its non-compliance with fundamental principles such as the rule of law, human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination, participation of the people, protection of the marginalized, good governance, integrity, transparency, and accountability, as enshrined in the constitution.

567. Further, they highlighted their concern that the enactment of the Bill, if it becomes law, would exacerbate the challenges faced by communities, particularly those in the Coastal Region who have a history of experiencing land injustices. They emphasized that many already have houses and primarily need security of tenure, making them vulnerable to evictions. Haki Yetu Organisation proposed that the government's focus should be on securing the residency of people living on untitled lands, prioritizing the enactment of the Evictions and Resettlement Procedures Bill, of 2012.

568. According to Haki Yetu, the Bill is perceived to primarily benefit the wealthy, neglecting those in the lower echelons of society. They argued that the preference for mortgage as the financing mechanism would only be accessible to the rich, leaving many jobless individuals or those with low social status unable to afford mortgage payments.

AJENDA KENYA

569. In their Memoranda, they mentioned concerns about the possible burden on employees, particularly due to the levy being calculated based on gross salary. This is especially challenging when factoring in existing statutory deductions and loan repayments. They recommend capping the levy based on employees' basic salary to alleviate this strain.

570. Ajenda Kenya proposed that the Affordable Housing Board should include direct nominees from the Council of County Governors, Central Organization of Trade Union, and Federation of Kenya Employers to ensure autonomy in the appointment process.

Joint Committee Observations

The Committee noted the concerns raised by the stakeholders however, the requirement for submission of three nominees is to allow the appointing authority to comply with the Constitution in terms of regional balance, gender, mainstreaming of PWDs, etc.

571. Further, the Community-Based Organization recommended expanding the Board's composition to include representatives from civil society, marginalized communities, persons living with disabilities, and relevant professional bodies for diverse perspectives in decision-making processes.

Joint Committee Observation

The Committee agreed with the stakeholders' proposals on the composition of the Board. The appointment process under Clause 12(3)(d)&(e) allows the appointing authority to comply with the Constitution in terms of regional balance, gender, mainstreaming of PWDs, etc.

572. Finally, they emphasized the need for regular audits, transparent financial transactions, and the establishment of mechanisms to report and investigate corruption and misuse of funds within the Affordable Housing Board and Fund administration, to safeguard the integrity of the program.

Joint Committee Observations

The Committee observed that the Public Audit Act sets out elaborate procedures for audit of public funds and the issue is also provided for under Clause 39 of the Bill.

ANJARWALLA & KHANNA

Through the written submission Anjarwalla & Khanna submitted as follows:

Clause 2(b)

573. Delete the provision.

Justification

574. The Kenya Revenue Authority serves as the designated agency entrusted with the collection and receipt of all revenue. Granting discretionary powers to the Cabinet Secretary for the clarity and efficiency of the collection process. It is imperative to maintain a streamlined approach by exclusively assigning the role of collector to the Commissioner General of the Kenya Revenue Authority, ensuring a singular and authoritative entity for this crucial responsibility. This amendment aligns with the principles of efficiency and accountability in revenue collection under this Act.

Joint Committee Observation

The Committee noted the concern of the stakeholder and was of a different view that the collector be expanded to cater to unique circumstances where any other person may be empowered to collect funds under the Act.

Clause 4 (2) (a &b)

575. Amend to introduce a capped limit on the amount payable for the Housing Levy.

576. It is advisable to incorporate a reasonable cap on the amount payable to safeguard taxpayers from potentially burdensome financial implications. By implementing a capped fee, we ensure that the contribution remains fair and proportional, under the constitutional threshold set out in Article 201 of the Constitution which requires equity and fairness to be applied in public finance matters.

Joint Committee's Observation

The Committee noted the concerns of the stakeholders, however, the Committee observed that leaving it open without capping promotes equity. Further, this will be in line with Article 201 (b)(i).

Clause 10(1)

577. Amend the Clause to define the term '*associated social and physical infrastructure*' as referenced in the Bill.

Justification

578. The Bill outlines that the funds generated will be utilized for the development of affordable housing and '*associated social and physical infrastructure*.' However, the term

'associated social and physical infrastructure' lacks a clear definition. nature of these funds, it is imperative to introduce a specific definition for transparency and clarity regarding their utilization. Defining this term ensures that stakeholders, including the public, have a precise understanding of the intended scope and purpose of the funds allocated for associated social and physical infrastructure.

Joint Committee's Observations

The Committee agreed with the stakeholders.

Clause 11(b)

579. Delete *"Public Finance Management (Kenya Slum Upgrading, Low-Cost Housing and Infrastructure Trust Fund) Regulations, 2006"* and replace it with *"Government Financial Management (Kenya Slum Upgrading, Low-Cost Housing and Infrastructure Trust Fund) Regulations, 2006"*.

Justification

580. There is no awareness as to the existence of the Public Finance Management (Kenya Slum Upgrading, Low-Cost Housing and Infrastructure Trust Fund) Regulations, 2006. If these exist, they should be made public on Kenya Law Reports or the website of the State Department for Housing. It is our understanding that the drafters of the Bill meant the "Government Financial Management (Kenya Slum Upgrading, Low-Cost Housing, and Infrastructure Trust Fund) Regulations, 2006" which was a regulation under the repealed Government Financial Management Act.

Joint Committee's Observation

The Committee noted that the Government Financial Management (Kenya Slum Upgrading, Low-Cost Housing, and Infrastructure Trust Fund) Regulations, 2006" were transitioned under the Public Finance Management Regulations.

Clause 31(1)

581. Specify the designated agency responsible for processing applications for affordable housing units, as the current language in the Bill lacks clarity on which agencies outlined in Section 11 of the Act will carry out this function.

Justification

582. The Bill stipulates that applications for affordable housing units are to be made to the relevant agency. However, the term 'agency' is defined as institutions that allocate funds under Section 11 of the Act, which designates funds to five specific institutions.

This leaves ambiguity regarding which particular agency will oversee the allocation of housing units.

Joint Committee's Observation

The Committee noted the stakeholder's concerns and recommended that the Bill be amended to provide that the Board will be the one to process applications for affordable housing units.

Clause 39(4)

583. Delete the phrase 'unless there are reasons of commercial confidentiality or security justifying exclusions.'

Justification

584. As a public body managing public funds, it is inappropriate to allow the Board discretion regarding the disclosure of activities. Transparency is a fundamental principle in the administration of public resources, and all activities and operations of the Board should be readily accessible to the public. Omitting the mentioned phrase ensures that there are no exceptions or discretionary clauses that might compromise the openness and accountability expected from a public entity managing public funds.

Joint Committee's Observation

The Committee agreed with the stakeholder's proposal.

New proposals

585. Anjarwalla and Khanna proposed the addition of the following to the Bill:
- (a) *Introduction of a mechanism within the Bill to specify a defined timeframe for the mandatory 1.5% employee contribution towards the housing scheme, allowing for a transition to a self-sustaining model.*

Justification

586. While the proposed 1.5% employee contribution towards the housing scheme is a commendable step, it is crucial to incorporate a provision within the Bill that outlines a specific timeframe during which this mandatory contribution will be applicable. This ensures that the housing scheme is designed to eventually sustain itself through the funds generated from the sale of houses. Introducing a time limit prevents the perpetual imposition of this contribution on employees who may not benefit from it in the long run.

Joint Committee's Observation

The Committee noted the concerns of the stakeholders, however, the Committee noted that the levy is meant to implement the affordable housing policy.

587. (b) In the alternative to (a) above, explore Public-Private Partnerships (PPPs) as an alternative funding source to alleviate the financial burden on employees and other income earners.

Justification

588. Furthermore, to reduce the financial burden on employees and income earners, they recommend exploring the Public Private Partnership (PPP) as an alternative funding source for the affordable housing initiative. Collaborating with private entities can bring in additional financial resources and expertise, potentially lessening the reliance on direct contributions from individuals. This approach aligns with broader financial sustainability goals and promotes a more diversified and resilient funding model for the Affordable Housing Program

Joint Committee's Observation

The Committee noted that there is an existing Public Private Partnership Act which the government has the discretion to consider in the implementation of the Affordable Housing Project.

MUTARAKWA HARMONY COOPERATIVE.

589. In their written memorandum dated 18th January 2023, Mutarakwa Harmony Cooperative expressed the belief that the Affordable Housing Project stands as a commendable government policy aimed at offering decent and affordable housing for all impoverished families currently residing in uninhabitable conditions within slums. Furthermore, the stakeholders voiced support for the initiative to engage the Jua Kali sector, not only for providing labor on construction sites but also for the supply of essential items such as doors, windows, locks, and other products contracted to the Jua Kali industry.

SOUTH B WELDERS ASSOCIATION

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590. The Association through a written memorandum dated January 19, 2024, expressed their support of the Bill emphasizing the Program's vital role in poverty reduction by providing families with a foundation for improved living conditions in Kenya, while also noting that manageable housing expenses enable households to allocate funds to other essential needs.

591. In addition, the Association highlighted the significance of the construction of affordable housing units in creating job opportunities and fostering economic growth in Kenya. Furthermore, they expressed support for the collaborative approach of successive public-private partnerships aimed at enhancing housing affordability and accessibility.

Kamukunji Jua Kali Group

592. On January 19, 2024, the Kamukunji Jua Kali group submitted written memoranda to the Committee in support of the Bill. They expressed optimism about the Affordable Housing Project, foreseeing lifetime employment opportunities for youth, both educated and uneducated. They praised the Government's policy aimed at offering decent and affordable housing to impoverished families, particularly those residing in slums. Further, they endorsed the initiative to engage the Jua Kali sector not only in providing labor at construction sites but also in supplying various items such as doors, windows, locks, and grills.

Mr. Robert Khaemba

593. Through a written submission dated January 24, 2024, Mr. Khaemba pointed out the widespread lack of housing among many people in Kenya, asserting housing as a fundamental human right that the Government must guarantee for every family. He suggested categorizing Kenyan contributors to the fund differently, advocating for lower contributions from low-income earners compared to those with stable incomes, and proposing voluntary contributions for those who already own houses.

594. He also stressed the importance of educating jobless Kenyans, particularly those in rural areas, about the Bill to enable them to make informed decisions regarding unit ownership. Additionally, he advocated for allowing foreign and private investors to collaborate with the Government on housing projects. Furthermore, he urged advocates, lawyers, and lawmakers to collaborate with the Government to establish sensible laws that protect taxpayers and the fund, ensuring it serves its intended purpose

Matatu Stage Welfare Association.

595. In their written memorandum dated January 19, 2023, the Matatu Stage Welfare Association expressed their support for the Bill, highlighting the government's agenda of affordable housing as an opportunity for them to be integrated into acceptable housing standards. They proposed a collaborative public-private partnership approach where stakeholders in the sector contribute to the housing levy, enabling them to become homeowners and thereby ensuring improved living standards for their families.

596. Furthermore, the Association emphasized that the Affordable Housing Project Bill would uphold the integrity of families by distinguishing sector workers from common criminals, allowing security agencies to address criminal activities more effectively and prevent the unfair labeling of all individuals associated with the sector.

Joint Committee's Observation

The Committee noted that there is an existing Public Private Partnership Act which the government has the discretion to consider in the implementation of the Affordable Housing Project.

KENYA UNIVERSITIES STUDENT ORGANIZATION

597. In a memorandum dated 22nd December 2023, the Kenya Universities Student Organization, represented by its President, expressed support for the Affordable Housing Bill, hailing it as a pivotal solution in the eradication of slums and a crucial avenue for generating job opportunities while providing access to decent and affordable housing.

598. Recognizing the significance of the bill in facilitating the funding and construction of affordable housing units nationwide, the student organization emphasized the urgent need for its swift passage by the National Assembly.

Mr. Eliud Matindi

Through a written Memoranda dated 20th January 2024, Mr. Eliud Matindi submitted as follows:

Clause 3(1)(a) and (c)

599. The provision of accessible and adequate housing, as mandated by Article 43(1)(b) of the Constitution, falls within the purview of county governments, as stipulated in Article 186(1) when read in conjunction with the Fourth Schedule. However, it is crucial to note that the function delineated under Article 43(1)(b) pertains solely to housing policy. Any attempt to extend this mandate to encompass the actual provision of houses, as proposed by certain clauses, poses a significant threat to the Constitutional framework. Such an extension would contravene several fundamental principles enshrined in the Constitution, including but not limited to Articles 1, 2, 6, 10(2), 43(1)(b), 174, 186(1), 189, and the Fourth Schedule. It is imperative to uphold the constitutional delineation of powers and functions to ensure the integrity and effectiveness of governance structures under the principles of devolution and the rule of law.

Joint Committee's Observation

The Committee noted the concerns raised by the stakeholders and recommended the inclusion of a mechanism for engagement between County governments and the National government.

Clauses 4(2)(a) (b), 3 and 5

600. The commencement of Clauses 4(2)(a) and 5 without ensuring that all persons liable to pay the levy under Clause 4(2)(b) can afford to do so would pose a significant threat to various constitutional articles. Specifically, Articles 10(2), 27, 28, 40, 43, 47, 94, 201, and 232, which safeguard fundamental rights and principles such as equality, fair administrative action, access to justice, and protection of economic rights, among others. By initiating these clauses prematurely, without adequate consideration for the financial capacity of individuals, there is a risk of infringing upon these constitutional provisions and undermining the principles of fairness and equity.

601. Further, the commencement of the aforementioned clauses before establishing the Fund's Board, recruiting key personnel such as the administrator/chief executive officer and corporation secretary, and implementing necessary systems to fulfill the Fund's objectives would also pose constitutional threats. This action would contravene Articles 10(2), 201, and 232, which emphasize transparency, accountability, and prudent use of public resources. Without the proper governance structure and administrative framework in place, there is a risk of mismanagement, inefficiency, and potential abuse of power, which could undermine the integrity and effectiveness of the Fund's operations. Therefore, it is imperative to adhere to constitutional principles and ensure proper procedural safeguards are in place before commencing these clauses to uphold the rule of law and protect the rights of all stakeholders involved.

Joint Committee's Observation

The Committee noted the concerns of the stakeholders and agreed there is a need to put in place mechanisms for the commencement of certain provisions coming into effect once the law is operationalized.

Clause 8

602. The proposal to vest the Affordable Housing Fund in the Board presents significant constitutional concerns and potential threats to key articles safeguarding transparency, accountability, and prudent management of public funds. Articles 10(2), 201, 206, and 232 underscore the principles of good governance, accountability, and the responsible use of public resources. By consolidating the Affordable Housing Fund within the Board, there is a risk of contravening these constitutional provisions. Public funds, as stipulated

in Article 206(1)(a), are inherently owned by the public and must be managed and administered in a manner that upholds transparency and serves the public interest.

603. Therefore, entrusting the management of public funds to a specific individual or entity, such as a board, without adequate checks and balances, poses a threat to the foundational principles of accountability and democratic governance enshrined in the Constitution. It is imperative to ensure that any arrangements concerning the management of public funds adhere to constitutional safeguards and principles to prevent any potential abuse or mismanagement of public resources

Joint Committee's Observation

The Committee noted the provisions of Article 206 of the Constitution and Section 24 of the Public Finance Management Act on the establishment of public funds and therefore proposes that the Fund will ring-fence the affordable housing monies as such the Fund must vest in a body corporate (as opposed to the Consolidated Fund) to comply with principles of corporate governance.

Clause 9(b)

604. The exclusion of the Senate from the appropriation of funds to the Affordable Housing Fund raises significant constitutional concerns and poses a threat to various key articles outlined in the Constitution. Articles 1, 6, 10(2), 43(1)(b), 94, 96, 110, 112, 174, 186, and the Fourth Schedule emphasize principles of democracy, equitable representation, and the distribution of powers among different levels of government. The provision of accessible and adequate housing by the State and its agencies, as stipulated in Article 43(1)(b), is recognized as a county government function.
605. Therefore, excluding the Senate from the appropriation of funds to the Fund undermines the principles of devolution and intergovernmental cooperation established in the Constitution. It disrupts the balance of powers between the national and county governments and diminishes the Senate's role in representing county interests and ensuring equitable resource allocation. Ensuring the involvement of the Senate in the appropriation process is essential to uphold the constitutional principles of democracy, accountability, and effective governance across all levels of government.

Joint Committee's Observation

The Committee noted the concerns of the stakeholders and observed that Article 95(4)(b) of the Constitution provides that only the National Assembly appropriates funds for expenditure by the National government and other national state organs.

Clauses 10, as read together with Clause 3(c)

606. The lack of clear provisions within Clause 10 regarding how the Affordable Housing Fund, established as a means to achieve the objectives of the Bill, would fulfill its intended purposes raises significant constitutional concerns. While Clause 3(c) outlines the objectives of the Fund, there is a notable absence of specific mechanisms or strategies detailing how these objectives will be realized. Instead, the Fund appears to primarily serve as a conduit for channeling public funds to third parties, lacking any discernible operational framework or defined roles beyond financial distribution. This ambiguity not only undermines principles of transparency and accountability outlined in Articles 10(2), 201, and 232 but also fails to align with the constitutional mandate to provide accessible and adequate housing, as stipulated in Article 43(1)(b).

Joint Committee's Observation

The Committee noted the concerns of the stakeholder and proposed amendments to set out specific obligations requiring the development of a five-year affordable investment programme and the procedure for approval of that programme. This will ensure no ambiguity in the decision-making of the Board.

607. The vague reference to 'off-take' further compounds this uncertainty, as its relevance and implications in achieving the Fund's objectives remain unclear. Consequently, the proposed provisions pose a threat to several constitutional articles, including Articles 10(2), 40, 43(1)(b), 201, and 232, by failing to establish a coherent framework for realizing the Bill's housing objectives and ensuring effective utilization of public funds.

Joint Committee's Observation

The Committee agreed with the stakeholders.

Clauses 11(a) (b) and (c)

608. The proposed allocation of funds from the Affordable Housing Fund, as outlined in the clause, poses significant constitutional threats. Firstly, the allocation of funds for functions that fall within the purview of county governments, as stipulated in the Fourth Schedule, contravenes Articles 10(2), 186(1), and 201. This diversion of public funds to recipients for the execution of county government functions not only undermines the principles of devolution but also challenges the autonomy and jurisdiction of county

governments, thus jeopardizing the constitutional framework established for decentralized governance.

609. Additionally, allocating funds from the Fund for purposes prohibited by existing regulations, such as maintenance, rehabilitation, and offtake of affordable housing programs under the Slum Upgrading Programme, violates legal provisions outlined in Regulation 4 of Legal Notice No. 168 of 2006 and Section 7(3) of the Housing Act (CAP 117, Laws of Kenya).
610. This contravention further undermines the integrity of legal frameworks governing housing initiatives and presents a direct challenge to constitutional provisions safeguarding the separation of powers, fiscal responsibility, and the equitable distribution of resources among government entities, as enshrined in Articles 2(2) and (4), 201, 206(3), 225(2), and 232. Therefore, the proposed allocation of funds from the Fund represents a clear threat to constitutional principles and legal frameworks governing the allocation and utilization of public resources for housing-related initiatives.

Joint Committee Observation

The Committee noted the concerns of the stakeholders, the Committee resolved to restrict the Board's allocation out of the Fund with the five-year affordable housing investment programme so that payments out of the Fund are tied to an approved programme.

Clause 13

611. The establishment of the Board, as outlined in clause 13, poses a significant threat to the functions and authority of county governments in providing accessible and adequate housing, as mandated by Article 43(1)(b) of the Constitution. By creating a state agency with jurisdiction over housing initiatives, the proposal effectively supplants the role of county governments and their executives, who are constitutionally designated as the primary entities responsible for housing provision within their respective jurisdictions.
612. This encroachment on the functions of county governments not only undermines the principles of devolution and local governance enshrined in Articles 186(1) and 189(1) but also contravenes the Fourth Schedule of the Constitution, which delineates the exclusive and concurrent functions of national and county governments. By establishing a parallel state agency to oversee housing matters, the proposal undermines the constitutional framework for decentralized governance and poses a direct challenge to the autonomy and authority of county governments in fulfilling their constitutional mandate to provide accessible and adequate housing to their residents. Therefore, the

establishment of the Board as proposed in clause 13 represents a fundamental threat to the constitutional principles of devolution and the distribution of powers between national and county governments.

Joint Committee's Observation

The Committee noted the concern of the stakeholders, however, noted that this levy is to support the national government on affordable housing and therefore the establishment of the board does not contravene the functions of the county government.

Clauses 12(3) (a and e), 14(1) and 16

613. The absence of provisions for competitive recruitment mechanisms for the chairperson of the Board and the three individuals appointed by the Cabinet Secretary, as outlined in clause 12(3)(e), raises significant concerns regarding the transparency and accountability of the selection process. Without established procedures for competitive recruitment, there is a risk of nepotism, favoritism, and lack of meritocracy in the appointment of key positions within the Board.
614. This absence of clear guidelines undermines the principles of fairness, equality, and integrity in public appointments, thus posing a threat to the constitutional imperative of promoting good governance and accountability as enshrined in Article 10(2). By failing to ensure competitive recruitment for these crucial roles, the proposed clauses fall short of upholding the constitutional standards of transparency, fairness, and meritocracy in public appointments, thereby undermining the overarching principles of good governance and democratic accountability within the Affordable Housing Bill. Therefore, the absence of provisions for competitive recruitment in these clauses constitutes a significant threat to the constitutional values and principles articulated in Article 10(2).

Joint Committee's Observation

The Committee agreed with the stakeholder concern

Clause 22

615. The proposed functions outlined for the Chief Executive Officer of the Fund, as articulated in the clause, appear to encroach upon the constitutionally mandated functions of county government executives in the provision of accessible and adequate housing. By granting the Fund's CEO responsibilities that overlap with the functions assigned to county government executives, the clause undermines the principles of devolution and local governance established under Articles 1(1), (3)(b), (4)(b), 6, 10(2), 174, 176, 183, 186, 189, and 232 of the Constitution, as well as the delineation of

functions between national and county governments outlined in the Fourth Schedule. This overlap raises concerns about the potential for conflicts of jurisdiction and responsibilities between the Fund's CEO and county government executives, potentially leading to inefficiencies, duplication of efforts, and challenges in the effective delivery of housing services at the local level. Therefore, the inclusion of functions for the Fund's CEO that impinge upon the roles of county government executives poses a significant threat to the principles of devolution and constitutional governance enshrined in Kenya's Constitution

Joint Committee's Observation

The Committee noted the provisions of Article 206 of the Constitution and Section 24 of the Public Finance Management Act on the establishment of public funds and the role of administrators of public funds.

Clause 28

616. The provision granting the Fund's Board unrestricted authority to delegate its powers and functions, not only to the Fund's administrator, officers, or employees but also to unspecified agents, poses a grave threat to the principles enshrined in Articles 10(2), 201, 225(2), 226, and 232 of the Constitution. This proposal essentially transforms the Board into a conduit for channeling public funds to unidentified and unaccountable individuals or entities, thereby undermining transparency, accountability, and oversight mechanisms.
617. Delegating powers to unknown agents without clear accountability mechanisms, the proposal creates fertile ground for corruption, mismanagement, and misuse of public funds, contravening the constitutional principles of good governance and responsible financial management. Moreover, such a broad delegation of powers risks creating conflicts and confusion within the Fund's operations, further jeopardizing its effectiveness and integrity. Therefore, the unrestricted delegation of powers as proposed poses significant constitutional threats and undermines the fundamental principles of democratic governance and public accountability in Kenya.

Joint Committee Observation

The Committee noted the provisions of Article 206 of the Constitution and Section 24 of the Public Finance Management Act on the establishment of public funds and the role of administrators of public funds.

Clause 30

618. The Clause exhibits inconsistencies with several key provisions of the Constitution, including Articles 10(2), 24, 27, 28, and 43(1)(b). While certain rights enshrined in the Bill of Rights, such as those delineated in Articles 35 and 38, may entail specific limitations or exclusions, the right to accessible and adequate housing as guaranteed by Article 43(1)(b) applies universally to all individuals within Kenya's jurisdiction, irrespective of citizenship status. Therefore, any attempt to restrict or exclude certain groups from accessing affordable housing under the Bill contravenes the constitutional principle of equal treatment and non-discrimination, posing a direct threat to Article 2(6), which safeguards against discrimination on various grounds, including nationality.
619. Moreover, the Clause's failure to delineate the type of ownership tenure applicable to eligible individuals who are not Kenyan citizens further compounds the constitutional concerns. Article 65 of the Constitution stipulates the types of land tenure recognized in Kenya, and any deviation from these prescribed forms of tenure for non-citizen individuals may infringe upon their property rights and contravene constitutional provisions relating to land ownership and tenure. Therefore, the Clause in question not only undermines the fundamental right to accessible housing for all individuals but also raises significant constitutional questions regarding property rights and equality before the law.

Joint Committee's Observation

The Committee noted that the criteria shall be specifically set out in the regulations

Clause 32

620. The Clause presents significant inconsistencies with various constitutional provisions, including Articles 10(2), 47, 201, 225, 226, 227, and 232. By allowing agencies external to the oversight of the Fund's board to allocate affordable housing units funded under the proposed Act to themselves, it effectively bypasses the established governance structures and accountability mechanisms envisioned by the Constitution. This undermines principles of transparency, accountability, and fair allocation, as articulated in Articles 201, 225, 227, and 232, which mandate the responsible and equitable management of public resources.
621. Moreover, the absence of clear criteria or conditions governing the off-take process for housing units provided under the scheme further exacerbates these constitutional concerns. The lack of defined parameters for determining when and how agencies can acquire these units not only undermines the principles of fair allocation but also raises questions regarding the proper fulfillment of functions reserved for county governments. This ambiguity threatens the constitutional mandates outlined in Articles 10(2), 43(1)(b),

174, 186(1), 189(1), 201, and 232, which collectively emphasize the importance of clarity, accountability, and adherence to constitutional principles in the implementation of public policies and programs.

Joint Committee's Observation

The Committee agreed with the stakeholders

Clauses 33 - 38

622. The clauses present notable deviations from constitutional provisions, particularly Articles 10(2), 43(1)(b), and 47, by failing to address the housing needs of individuals who opt to rent rather than purchase affordable housing units provided under the proposed Act. This oversight contradicts the constitutional mandate to ensure accessible and adequate housing for all citizens, thereby violating Articles 43(1)(b), 174, 186, 189, and 232, which stipulate housing as a county government function. Additionally, the clauses neglect to accommodate joint applications for housing, undermining Article 45's protection of family units and married persons' right to housing.

Joint Committee Observation

The Committee noted the concern of the stakeholders however the guiding principle of this Bill is to promote home ownership through rent to own.

623. Further, Clause 36 introduces discriminatory treatment by not justifying the grounds for differential treatment of individuals enjoying the housing rights enshrined in Article 43(1)(b). This lack of justification poses a threat to Articles 10(2), 24, 27, 28, and 43(1)(b) by potentially infringing on the constitutional principle of non-discrimination.

Joint Committee observations

The Committee agreed with the stakeholders

624. Moreover, Clause 38 raises concerns regarding the protection of public funds and consumer rights, as it exposes individuals to financial risks by allowing savings accounts in agencies lacking legal capacity or authorization to safeguard such savings. This ambiguity and potential for financial exploitation undermine constitutional safeguards outlined in Articles 10(2), 40, 43, 46, 201, 206, 226, and 232, which advocate for transparent and accountable financial practices and the protection of consumer interests.

625. Additionally, the requirement for eligible individuals to make voluntary savings for accessing housing services, despite their constitutional entitlement to such services,

introduces confusion and opacity, posing a threat to Article 10(2)'s principle of transparency and accountability in governance.

Joint Committee's Observation

The Committee noted the stakeholders' concerns and proposed that the voluntary savings be made with the board and not the Agency.

Clause 43(2)

626. The provision presents a significant threat to a multitude of constitutional articles, including Articles 1(3)(c), 2(1, 2, and 4), 3(2), 10(2), 24, 40, 47, 50(1), 159, 160, 162, and 232. By overturning a determination made by a court of competent jurisdiction regarding the constitutionality of Sections 31B and 31C of the Employment Act, 2007, as enacted by Section 84 of the Finance Act, 2023, along with all acts conducted under those enactments, the provision undermines the principles of judicial independence, separation of powers, and the rule of law enshrined in the Constitution. This action disregards the authority of the judiciary and compromises the constitutional mandate of courts to interpret and uphold the Constitution.

The Committee noted that the court did not make any declaration on funds already collected and further the court recognized that the levy is for the implementation of the affordable housing policy.

627. Further, it sets a dangerous precedent by allowing legislative interference with judicial decisions, thereby eroding the foundational principles of democracy, constitutionalism, and the protection of fundamental rights and freedoms guaranteed by the Constitution.

BLAIR ANGIMA OIGORO

628. Blair Oigoro, a Kenyan citizen residing in Nairobi City County and currently undergoing the Advocates Training Program (ATP) at the Kenya School of Law, raised several concerns regarding the Bill.

Lack of concurrence process

629. The issue of concurrence in the legislative process, particularly concerning bills that may impact counties, is a matter of constitutional significance in Kenya. Highlighting the absence of concurrence in the Affordable Housing Bill 2023 before it reached the public participation stage, raises a critical constitutional concern. He references legal precedents, including Supreme Court Advisory Opinion No 2 of 2013, which underscore

the constitutional imperative of seeking concurrence between the National Assembly and the Senate on bills concerning counties.

630. The Supreme Court's stance echoed in subsequent judicial rulings such as the case of the Senate of the Republic of Kenya v Speaker of the National Assembly, emphasizing the mandatory nature of the concurrence requirement as stipulated in Article 110(3) of the Constitution of Kenya 2010.
631. Moreover, Blair Oigoro pointed out the procedural obligations outlined in Senate Standing Order 127, which further elucidates the steps necessary for seeking concurrence between the Speakers of the National Assembly and the Senate before the introduction of a bill concerning counties. By emphasizing the joint resolution required by the Speakers and the communication process mandated between the two houses, Oigoro highlights the structured approach mandated by constitutional provisions and parliamentary standing orders to ensure proper consideration of bills impacting county governance.
632. Overall, Oigoro's delineation of the constitutional and procedural framework surrounding concurrence in the legislative process serves to underscore the importance of adherence to these mechanisms in upholding constitutional principles and safeguarding the integrity of the legislative process in Kenya.

Joint Committee Observations

The Committee noted the concern, however, noted that the issue of concurrence is sufficiently provided for in the Standing Orders.

The risk of violation of the Fourth Schedule of the Constitution 2010 regarding housing as a County Government function.

633. Article 186(1) of the Kenyan Constitution delineates the distribution of functions and powers between the national government and county governments, with specific reference to the Fourth Schedule. Notably, the Fourth Schedule assigns County planning and development, which encompasses housing, as a function of county governments. This constitutional provision underscores the pivotal role of county governments in spearheading local development initiatives, including the provision of housing services tailored to the needs of their respective constituencies.
634. Further, Article 174(f) underscores the overarching objective of devolution to promote social and economic development while ensuring the provision of accessible services across Kenya. In alignment with these constitutional principles, housing

development emerges as a critical component of county-level planning and development efforts, reflecting the broader mandate of devolved governance to foster inclusive growth and enhance the well-being of citizens at the local level.

Joint Committee Observations

The Committee noted the concern of the stakeholders, however, noted that the Bill does not deal with pre-construction approvals and only deals with the levy and the Fund. Therefore, the Bill does not take away the function of County Governments related to planning and development.

The risk of violation of Article 201 on principles of public finance.

635. Article 201(b)(i) of the Kenyan Constitution outlines fundamental principles guiding public finance in the country, emphasizing the promotion of an equitable society and fair sharing of the tax burden among citizens. The Affordable Housing Bill 2023, however, appears to place a disproportionate tax burden on the employed population to finance the affordable housing initiative. This approach raises concerns about the fairness and equity of the tax allocation, as it targets a specific category of individuals rather than distributing the burden across all Kenyans capable of contributing to public finances through taxation. Such an approach may contradict the constitutional principle of equitable taxation and could potentially lead to disparities in the sharing of financial responsibilities for housing initiatives among different segments of the population.

Joint Committee Observations

The Committee observed that clause 4(2) of the Bill is not discriminatory as it imposes the payment of the levy to both salaried and non-salaried persons

The risk of violation of Article 27 which provides for equality and freedom of discrimination.

636. The provisions outlined in the Affordable Housing Bill 2023 appear to impose discriminatory measures on Kenyan employees by mandating them to pay a 1.5% levy, without directly benefiting from the initiative. This levy adds a financial burden on employees who are already grappling with existing mortgages and housing loans.

637. Moreover, requiring employers to remit the levy, especially when some already provide housing allowances to their employees, introduces further economic strain and appears inequitable. Consequently, the bill exhibits economic discrimination towards both employers and employees, highlighting potential challenges in its implementation and implications for fair taxation and financial burden-sharing within the workforce.

Joint Committee Observations

The Committee noted the concerns of the stakeholders, however, the Committee noted that the levy is meant to implement the affordable housing policy.

The Kenya National Real Estate Investment Trusts (REITs), The Nairobi Securities Exchange, The Fund Managers Association and The Kenya Association of Stockbrokers and Investment Banks and The REITs Association of Kenya.

638. In their written memorandum dated January 25th, 2024, stakeholders expressed their support for the Affordable Housing Bill, citing the constitutional right to adequate, decent, and affordable housing outlined in Article 43. They emphasized the potential of Real Estate Investment Trusts (REITs) as a viable mechanism to achieve the government's affordable housing agenda. REITs, which operate as securities trading like stocks and own income-producing real estate assets, were identified in the Sanduku Initiative by the Ministry of Investments Trade and Industry as vehicles for implementing affordable housing initiatives.

639. However, stakeholders highlighted the challenges hindering the deployment of REITs in the Affordable Housing Program, particularly the tax burden imposed on them, including stamp duty and capital gains tax. As a result, they requested an opportunity to meet with the Honorable Members of the Joint Committee to provide a brief presentation and address questions aimed at clarifying the role of REITs in facilitating affordable housing provision.

The Committee noted the stakeholders' concern

3.18 MOMBASA COUNTY

AMINA ABDALLA - HAKI YETU ORGANIZATION

640. During their submission before the Committee, stakeholders voiced their opposition to the Bill, asserting that they viewed public participation as a meaningless exercise. They questioned the true impact of community input on the decision-making process. Highlighting the importance of prioritizing locals in the allocation of house units, they argued that the community's needs should take precedence over external interests. Additionally, they raised concerns about the potential negative consequences of the legislation, emphasizing the need for safeguards to prevent affluent individuals from exploiting loopholes and acquiring multiple units through proxies.

BUXTON TENANTS ASSOCIATION

641. On 30th January 2024, the Association submitted its written memoranda to the committee, expressing dissatisfaction with the implementation of the Buxton Affordable Housing project. They provided insights and proposals on pertinent issues under consideration. The Association called for the public disclosure of all Public Private Partnerships of Housing Agreements to address negative public concerns. They suggested that both National and County Governments conduct public participation before initiating any housing developments, emphasizing community involvement in decision-making processes.
642. Another proposal put forward by the Association is the implementation of Land Valuation as a prerequisite for all housing projects, to be conducted before the bidding process begins. This measure aims to ensure that the county government receives fair value for its property during negotiations for its stake in the project. Additionally, they urged the expeditious allocation of housing to those who have fulfilled payment obligations as stipulated in the tenancy agreement, particularly in collaborations between developers and the County Government of Mombasa.
643. To maintain standards, the Association recommended that County Governments adhere strictly to the guidelines set by the National Government for the Affordable Housing Programme regarding unit size and pricing per square meter. Lastly, they emphasized the prioritization of former tenants or relocated inhabitants of a given parcel of land in the allocation of housing units developed under the Affordable Housing Programme.

YOUTH REPRESENTATIVE

644. During his submission before the committee in support of the Bill, Mr. Suleiman Ntululu emphasized the imperative of directing the Affordable Housing Fund towards its designated objectives, stressing the need for responsible and transparent allocation. He specifically advocated for the involvement of youth in the project, proposing that a significant percentage of tenders should be exclusively awarded to the youth, viewing this as a mechanism for fostering youth employment opportunities. Expressing a keen interest in the initiation of the project in Mombasa County, he anticipated positive ripple effects on the local economy, foreseeing improved living standards as a result.

REPRESENTATIVE OF CLERGY

645. Their concern centered on promoting affordability and accessibility to housing for all, recognizing the need for a balanced and sustainable approach. Additionally, they noted that the Affordable Housing Program (AHP) should extend its scope to include the construction of churches and mosques, reflecting the stakeholders' commitment to cultural and religious diversity within housing initiatives.

PERSONS LIVING WITH DISABILITIES (PWDs)

646. Expressing their support for the Bill, the stakeholders highlighted the paramount importance of considering the security situation of local communities when determining the location of housing units. Emphasizing the need for safety and stability, they recognized the direct correlation between security conditions and the overall well-being of residents. In addition to infrastructure concerns, the stakeholders strongly argued for the inclusion of Persons with Disabilities (PWDs) in the program. They proposed reserving tenders for PWDs, ensuring that housing units are PWD-friendly, and advocating for the priority allocation of houses to PWDs

Joint Committee Observations

The Committee noted that Clause 31(3) obligates the Board to give preference to persons with disabilities, marginalized persons among others in the allocation of Affordable Housing Units

Other County Residents

647. County residents had a divergent view with some in support of the Bill, while others expressed their reservations. Those in support underscored its positive impact on job creation and the well-being of families. They anticipated highlighted the economic growth generated by the construction of housing units, emphasizing the tangible benefits for the local community. In a show of support, they proposed recommendations such as the need to consider residents for artisan and mason jobs; including social amenities and other critical infrastructure in the construction of AHPs; Building Churches; mosques and other places of worship and reserving a considerable proportion of tenders for the AHP for youths, women and persons living with disabilities.

648. On the other hand, some residents express reservations and present concerns regarding various aspects of the Affordable Housing Bill. They question the fairness of imposing housing levies, noting potential avenues for discrimination as unemployed/business people may not be charged while the same is imposed on

salaried/employed individuals. Concerns were raised about the timing of public participation, particularly after recent demolitions in Chagamwe, questioning the appropriateness of the process. Furthermore, residents highlighted the need for skilled jobs for youths, expressing a preference for occupations beyond those typically offered in Affordable Housing Projects (AHP). Additionally, residents emphasize the importance of reducing house prices and ensuring that house owners/buyers are local. The unresolved matter of evicting residents from the Buxton Affordable Housing site was brought to the attention of the Committee, emphasizing the need for promises to be fulfilled in this regard.

3.19 KILIFI COUNTY

Kilifi Juakali Association

649. During their submissions before the Committee in favor of the Bill, the Chair of the Association highlighted the potential for the bill to create both direct and indirect job opportunities. He emphasized the importance of prioritizing youth for employment opportunities at Affordable Housing sites. The Chair highlighted the significance of empowering young people through employment, recognizing their role in driving economic growth and development. He stressed the need for inclusive policies that prioritize youth access to job opportunities, particularly within the Affordable Housing sector, as a means to address unemployment challenges and promote socio-economic advancement.

Persons Living with Disabilities Representatives (PWDs)

650. Expressing their support for the Bill, they advocated for prioritizing Persons with Disabilities (PWDs) when it comes to receiving housing. They emphasized the importance of ensuring that housing initiatives are inclusive and accessible to all members of society, including those with disabilities. Furthermore, they proposed the reservation of tenders specifically for PWDs, aiming to provide them with opportunities for meaningful participation in the housing sector. Additionally, they stressed the necessity of ensuring that housing units are designed and constructed in a manner that accommodates the needs of PWDs, thereby promoting greater accessibility and inclusivity in housing projects.

Joint Committee Observations

The Committee noted that Clause 31(3) obligates the Board to give preference to persons with disabilities, marginalized persons among others in the allocation of Affordable Housing Units

Bodaboda Association

651. They stated their agreement with the provision in the Bill that ensures those working in the informal sector are also required to pay the Affordable Housing Levy. They emphasized the importance of ensuring that contributions toward the Affordable Housing Fund are inclusive and equitable across all sectors of employment, including the informal sector. They recognized the significance of extending the levy requirement to informal sector workers to ensure sufficient funding for affordable housing initiatives and promote social equity within the housing sector.

652. Additionally, they proposed the elimination of the 10 percent deposit currently required for the allocation or purchase of Affordable Housing Units. They argued that this deposit requirement presents a barrier to access for many potential beneficiaries of affordable housing schemes, particularly those with limited financial resources. They emphasized the need to remove financial barriers and streamline the process of accessing affordable housing units to facilitate greater affordability and accessibility for all individuals, especially those in lower income brackets.

Joint Committee Observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

Kilifi County Tertiary Students Association

653. The Association expressed its support for the Bill, emphasizing the importance of integrating Technical and Vocational Education and Training (TVET) students into the Affordable Housing program. They highlighted that this integration would not only create job opportunities but also provide essential internship and attachment opportunities for TVET students. By involving TVET students in the Affordable Housing program, the Association believed that it would contribute to the enhancement of their practical skills and prepare them for employment in the construction and housing sectors. They emphasized the value of hands-on experience gained through internships and attachments in complementing theoretical knowledge acquired through formal education, thus improving the employability of TVET graduates and addressing skills gaps within the industry.

Joint Committee Observations

The Committee agreed to amend the Bill to provide for internships for students in TVET institutions and universities situated within areas where affordable housing is being undertaken.

Other County Residents

654. The residents of Kilifi County expressed their support for the Affordable Housing Program, highlighting the anticipated creation of both direct and indirect employment opportunities. They emphasized the positive impact they believed the program would have on their living conditions through the allocation of Affordable Housing Units.

655. However, concerns were raised regarding the 10 percent deposit requirement when purchasing these units, with proposals to eliminate this requirement. Additionally, the prices of the affordable housing units were deemed to be high and unaffordable, leading to a proposal to reduce both the cost of purchase and monthly installments to make them more accessible to residents.

Joint Committee Observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

656. Further, residents suggested that cash buyers should be excluded from the imposition of the Affordable Housing Levy, and elderly persons above 50 years old should be exempted from paying the levy altogether. Lastly, the residents emphasized the need to focus on addressing more pressing needs of the community, including education, security, and food security. They urged authorities to consider these priorities alongside the Affordable Housing Program to ensure a holistic approach to improving the well-being of residents in Kilifi County.

NATIONAL ENVIRONMENT CIVIL SOCIETY ALLIANCE OF KENYA

657. Through their written submissions dated 26th January 2024, the stakeholders centered their submissions on proposals derived from the existing Housing Act. They advocated for a meticulous review rather than the creation of new legislation to prevent redundancies and preserve institutional knowledge. The proposals underscored the importance of an inclusive application of the housing levy, transparent tendering processes, and the implementation of by-laws in Affordable Housing Schemes to regulate development. Furthermore, a strong emphasis was placed on ensuring clear consequences for mortgage default and incorporating safety measures and accessibility features in house design, aligning with the Green building approach to prioritize sustainability.

658. The submission also highlighted the necessity of promoting responsible land-use practices, discouraging farmland conversion, and ensuring strict adherence to Environmental, Social, and Governance (ESG) standards within Affordable housing schemes. This holistic approach encompassed considerations such as energy efficiency, utilization of renewable energy sources, and the establishment of transparent governance processes, all aimed at fostering a sustainable framework for affordable housing development. Specifically, they made the following proposals:

1. In Part I, concerns included the undefined term "*plinth*," prompting the need for clarification to prevent misinterpretation. The stakeholder suggested defining "*person*" under the preliminary section to align with the Interpretation and General Provisions Act, 2010.
2. The classification of "*Affordable housing units*" based on income levels prompted a recommendation to tie prices to proximity to social amenities, ensuring fairness. Issues related to allocation, targeting beneficiaries, and specifying project areas for the Affordable Housing program were highlighted, emphasizing the importance of needs-based assessment and strategic planning.
3. In Part II, concerns revolved around the perpetual nature of the Affordable Housing Levy, leading to a recommendation for a sustainable Housing Fund to reduce the burden on taxpayers. The absence of environmental considerations in fund allocation prompted suggestions for including green spaces, energy sources, and waste management in housing schemes, aligning with the Green Building approach.
4. Under Part V, the stakeholder raised transparency issues, recommending clarity on instances where commercial confidentiality may justify withholding information from the public.
5. In Part VI, the stakeholder addressed the obligation to develop regulations, proposing specific timelines and mandatory Environmental Impact Assessments (EIAs), and adherence to international human rights standards in resettlement procedures. The need for clarity in defining quorum as "50% plus one" was emphasized.

Joint Committee Observations

The Committee noted the stakeholders' observations and proposed amendments to deal with concerns

NAIROBI COUNTY

Technical University of Kenya Students

659. The students of The Technical University of Kenya (TUK), represented by their Student President, expressed their support for The Bill, viewing institutional housing projects as an opportunity to provide decent housing and accommodation for students.

The Student President proposed that 30% of the employment opportunities in the Affordable Housing Projects be reserved for the youth. This will address youth unemployment by creating job opportunities within the housing sector and supporting the economic empowerment of young people.

660. Further, the Student President suggested that the levy for the Affordable Housing Project should be progressive, ensuring that the burden of payment is distributed equitably. Under this proposal, the poor would pay less while the rich would contribute more, aligning with principles of social equity and progressive taxation.
661. Additionally, the Student President requested clarity on the continuity of the Affordable Housing Project in the future. This request underscores the importance of long-term planning and sustainability in housing initiatives to ensure that the benefits of such projects are maintained over time and continue to meet the needs of the community.

Joint Committee Observations

The Committee noted the stakeholder's concerns and resolved to allow the Board to allocate resources on a demand basis which may also include institutional houses.

Matatu Stage Welfare Association

662. The members of the Association, represented by their chairperson, expressed their support for the Bill, viewing it as an opportunity to own decent and affordable housing. The Association acknowledged the Affordable Housing Program as a significant step towards slum eradication in the country. They recognized the program's potential to address the housing challenges faced by many individuals and families, particularly those living in informal settlements or inadequate housing conditions. The Association signaled its commitment to supporting initiatives that aim to improve access to affordable housing for all citizens.
663. Furthermore, the Association proposed the inclusion of a representative from the informal sector in the Board overseeing the Affordable Housing Program. They noted that the suggestion reflects the Association's commitment to ensuring that the voices and perspectives of individuals working in the informal sector are represented in the decision-making processes related to housing development.

National Industrial Training Authority (NITA)

664. NITA expressed its support for the Bill, highlighting the Affordable Housing Program (AHP) as a valuable source of training opportunities for Technical, Industrial, Vocational, and Entrepreneurship Training (TIVET) institutions students nationwide. NITA emphasized the potential for TIVET graduates to gain valuable hands-on experience and

skills through involvement in Affordable Housing Projects. This alignment between the AHP and TIVET institutions signifies NITA's recognition of the importance of practical training and vocational education in preparing students for employment opportunities in various sectors, including the housing industry.

Joint Committee observations

The Committee agreed to amend the Bill to provide for internships for students in TVET institutions and universities situated within areas where affordable housing is being undertaken

665. Furthermore, NITA elaborated on the positive social impact that the Affordable Housing Program will have on communities across the country. They emphasized that the AHP will contribute to improving the quality of living standards by providing access to decent housing, thereby reducing crime rates, lowering rental costs, and enhancing sanitation levels. NITA's support for the AHP underscores its commitment to initiatives that promote social development and address housing challenges, ultimately contributing to the overall well-being of communities.

666. Additionally, NITA proposed an amendment to Clause 10 of the Bill, suggesting that the assessment and certification of individuals working on Affordable Housing Project sites should be included as one of the functions of the Fund. They recommended that this task be undertaken by the State Department through NITA, highlighting the expertise and resources available within NITA to ensure the quality and competency of workers involved in housing construction projects. This proposal aligns with NITA's role in promoting skills development and certification standards within various industries, including the construction sector, to uphold quality and safety standards in housing development initiatives.

Kenya National Congress of Pentecostal Churches of Kenya

667. The Congress expressed its support for the Bill, emphasizing the Affordable Housing Project (AHP) as a significant source of employment opportunities for Kenyans, both directly and indirectly. The Congress recognized the potential for job creation within the housing sector, contributing to economic growth and livelihood enhancement for individuals across the country. This will promote sustainable development and address socio-economic challenges by leveraging housing projects as a means of employment generation and economic empowerment.

668. Further, Congress highlighted the positive social impact that the Affordable Housing Project will have on communities nationwide. They emphasized that the AHP will play a

crucial role in improving the quality of living standards by providing access to decent and affordable housing options. Additionally, Congress identified several social benefits associated with the AHP, including the potential to reduce crime rates, lower rental costs, and enhance sanitation levels within communities.

Jua Kali Association

669. The Nairobi Jua Kali Association expressed its support for the Bill, citing it as an avenue for Jua Kali artisans across the country to access training and certification. They recognized the Affordable Housing Program as an opportunity for Jua Kali artisans to enhance their skills and contribute to the construction industry.

670. Further, the Nairobi Jua Kali Association highlighted the Affordable Housing Program as a platform for Jua Kali artisans to create a market for the items they produce. They emphasized the indirect impact of the program on large manufacturers who supply materials to Jua Kali artisans. They noted that this will lead to economic opportunities that the Affordable Housing Program could create for Jua Kali artisans, contributing to the growth of their businesses and the overall development of the Jua Kali sector across the country.

National Council for Persons with Disability

671. The National Council for Persons with Disability expressed their support for the Bill, emphasizing the positive impact it will have on employment opportunities, particularly for Persons with Disability (PWDs). They recognized the Affordable Housing Program as a significant avenue for creating employment opportunities for PWDs, thereby contributing to their economic empowerment and inclusion in society. Additionally, the Council appreciated the Bill as a source of decent and affordable housing for Kenyans across the country.

Mukuru Slum Residence Association

672. The Mukuru Slum Association expressed its support for the Bill, recognizing it as a vital source of decent and affordable housing for Kenyans, particularly those living in slums. The association highlighted the significance of the Bill in addressing the housing challenges faced by individuals residing in informal settlements, emphasizing the importance of access to affordable housing for improving living conditions and socio-economic well-being. Furthermore, the association appreciated the Bill as a source of employment opportunities within the Affordable Housing Projects. By endorsing the Bill, the Mukuru Slum Association demonstrated its commitment to advocating for the rights and interests of slum residents, as well as its recognition of the potential socio-economic benefits that the Affordable Housing Program could bring to their community.

Gikomba Artisan Traders Association

673. The Gikomba Artisan Traders Association expressed their support for the Bill, recognizing it as a significant source of employment for Kenyans in Affordable Housing Projects, both directly and indirectly. The association acknowledged the potential for job creation within the housing sector, particularly for artisans and traders operating in Gikomba and surrounding areas. Additionally, the association proposed that a percentage of the employment opportunities on-site and completed housing units be set aside for the local community.

Ruai Ward Nyumba Kumi Association

674. The Association expressed its support for The Bill, appreciating it as a crucial source of decent and affordable housing for Kenyans. By endorsing The Bill, the Association recognized the importance of addressing the housing challenges faced by many individuals and families across the country. They acknowledged the significance of The Bill in providing access to affordable housing options, which is essential for improving living standards and promoting socio-economic development. Through their support for The Bill, the Association demonstrated their commitment to advocating for initiatives that address housing affordability and accessibility, ultimately contributing to the overall well-being of Kenyan citizens.

Nairobi County Residents

675. Nairobi county residents expressed their support for the Bill, recognizing it as a crucial opportunity to own decent and affordable housing. They appreciated the Affordable Housing Program as a potential source of employment, both directly and indirectly.

676. Further, Nairobi residents requested that measures be put in place within the Affordable Housing Program to protect homeowners from losing their homes in case of default in payment due to circumstances such as loss of employment, retirement, or death. They sought assurance and clarity on a succession plan in the case of death, emphasizing the need for transparency and security for homeowners within the program.

677. Religious leaders proposed their inclusion in the Board overseeing the Affordable Housing Program, highlighting their desire to contribute to the governance and decision-making processes related to housing initiatives.

678. Additionally, the residents highlighted the importance of ensuring that the housing units are accessible for persons with disabilities. They emphasized the need for public facilities within the Affordable Housing Projects to be improved to cater to the needs of all residents, including those with disabilities.

Joint Committee observations

The Committee noted that Clause 31(3) obligates the Board to give preference to persons with disabilities, marginalized persons among others in the allocation of Affordable Housing Units

Federation of Kenyan Employers (FKE)

679. The Federation of Kenya Employers (FKE) expressed its support for the Bill, acknowledging its potential to address housing challenges in the country. However, they proposed several amendments to the Bill to better accommodate the economic situation of employees.
680. Firstly, FKE suggested that the levy for the Affordable Housing Program should be made voluntary. Alternatively, if mandatory, they proposed capping the levy at Kshs. 5,000 in total for both employers and employees, considering the financial constraints faced by employees in the current economic climate.
681. Furthermore, FKE proposed that the decision on fund distribution among Affordable Housing institutions should be left to the Board, rather than being allocated to specific institutions. They also recommended removing the allocation to the Kenya Revenue Authority (KRA) entirely, advocating for the Board to have full authority over fund allocation decisions.
682. Additionally, FKE proposed changes to the process of appointing members to the Board. They suggested that institutions should be allowed to nominate candidates for board positions, rather than the decision being solely left to the Cabinet Secretary (CS). Moreover, FKE recommended that the custody of the Common Seal should be with the Corporation Secretary, ensuring proper management and control of official documents and records.
683. FKE also proposed the principle of "one ID one affordable housing unit," stipulating that only individuals paying the Affordable Housing Levy should be eligible for a housing unit. They further suggested that the levy should be based on basic pay rather than gross pay, aiming to ensure fairness and affordability for employees.

Joint Committee Observations

The Committee noted stakeholders' concerns about potential abuse of the provision and recommended its deletion. Further, it also recommended that the Bill be amended to provide safeguards for instance one KRA pin one house, or any other unique identifier.

684. Lastly, FKE proposed amendments to Clause 13(l), suggesting that the Board should not be directed by the CS but should operate independently in decision-making processes related to the Affordable Housing Program.

Muthurwa Residents Association

685. The Muthurwa Residents Association expressed their support for the Bill, emphasizing the importance of community involvement and addressing residents' needs within the Affordable Housing Projects. They proposed the establishment of a community management committee to actively address issues affecting the residents of the projects. This will ensure that the concerns and interests of residents are effectively represented and addressed throughout the projects. Additionally, the Association proposed that all projects be fitted with adequate social amenities to cater to the needs of the residents. This proposal underscores their commitment to promoting the well-being and quality of life of residents within the Affordable Housing Projects by ensuring access to essential social amenities and facilities.

Nairobi Central Ward Women Leader

686. She expressed her support for the Bill, emphasizing the importance of ensuring affordability for Kenyans in the repayment installments. Additionally, she proposed that protection mechanisms be established to prevent homeowners from losing their houses in the event of defaults due to circumstances such as job loss, retirement, or death. These proposed mechanisms aim to provide financial security and stability for homeowners, safeguarding their housing investments during challenging times. Furthermore, she suggested that the projects should incorporate adequate and well-maintained social facilities.

Pamoja Trust Kibera

687. They expressed their support for the Bill but put forward several proposals for amendments. Firstly, they suggested that Clause 6 on exemptions be reviewed. Additionally, they recommended that Clause 7, which imposes a 3% penalty, be revised as they deemed it too punitive. Furthermore, they proposed that members of the board be nominated by the Public Service Commission (PSC), vetted by parliament, and appointed by the President.

Joint Committee Observations

The Committee agreed with the stakeholders and noted that the penalties in the Tax Procedures Act will apply.

688. They also suggested that the staff of the board should be recruited from the current establishment of the ministry rather than through new advertisements. Additionally, they

proposed merging the contribution to the housing levy with the loan and the 10% deposit. Finally, they suggested establishing a criterion for the allocation of houses. These proposals aim to improve various aspects of the Bill, ensuring fairness, efficiency, and effectiveness in its implementation.

Joint Committee Observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

Bunge ya Wazalendo Kariokor Ward

689. They expressed their support for the Bill, emphasizing the importance of ensuring that the payment model of the housing units remains at an affordable level for all individuals. Additionally, they proposed that ethnic diversity should be incorporated into the housing allocation process to promote harmony and inclusivity within the community. This will create a community environment that respects and celebrates cultural differences.

690. Furthermore, they suggested that a percentage of the employment opportunities arising from the Affordable Housing Projects be set aside specifically for the local community. This proposal aims to promote local economic development and empower residents by providing them with job opportunities within the projects.

Joint Committee Observations

The Committee noted that Clause 31(3) obligates the Board to give preference to persons with disabilities, marginalized persons among others in the allocation of Affordable Housing Units. Further, the Committee noted that the Bill be amended to provide for the sourcing of labour from local communities in the development of affordable housing units

Community Health Promoters Eastleigh South Ward

691. They expressed their support for the Bill and advised that the government consider providing adequate compensation for those displaced to pave the way for the construction of Affordable Housing Projects. This recommendation underscores their concern for the well-being of individuals affected by the development projects, emphasizing the importance of fair compensation and support during the relocation process.

692. Additionally, they suggested that the price of each housing unit should be determined through consultation with the local community to ensure affordability. This will address the specific needs and financial capabilities of residents. Furthermore, they proposed that the Bill should consider alternative payment opportunities, such as rent-to-own options, that may not require the traditional 10% deposit. This suggestion aims to broaden access to housing opportunities and accommodate individuals with varying financial circumstances, ultimately enhancing the inclusivity and effectiveness of the Affordable Housing Program.

Joint Committee Observations

The Committee noted the concern of the stakeholders however the guiding principle of this Bill is to promote home ownership through rent to own.

Majengo Slums Women

693. They expressed their support for the Bill, viewing it as a significant opportunity for them to own decent and affordable housing, which aligns with their aspirations for improved living conditions. They emphasized the importance of transparency in the repayment of the loan, proposing that the interest rate should be communicated and free from hidden costs. This recommendation reflects their desire for fair and accessible financial terms that enable them to afford and manage their housing investments effectively. Furthermore, the women proposed that a percentage of the housing units and employment opportunities within the projects should be reserved for the local community. They noted that this will ensure that the benefits of the Affordable Housing Program are accessible to and shared among the residents, promoting local empowerment and socio-economic development.

Joint Committee Observations

The Committee noted that Clause 31(3) obligates the Board to give preference to women, persons with disabilities, marginalized persons among others in the allocation of Affordable Housing Units

KENYA MORTGAGE REFINANCE COMPANY

Clause 2

694. The Kenya Mortgage Refinance Company expressed its view that certain definitions within the Bill should be broadened to encompass a wider scope of entities and provide more flexibility in their interpretation. Specifically, they suggested that the definition of

"agency" under paragraph 2(1) should not be restricted to entities receiving funds from the Affordable Housing Fund, but should instead include institutions capable of offering technical and structural support to the government for the affordable housing agenda. Additionally, they proposed that the definition of "affordable housing" should not specify a fixed percentage of a person's monthly income, as this could become restrictive over time due to changing parameters or thresholds.

695. They proposed that such specifics be outlined in the subsidiary legislation or regulations, envisaged in the Bill, to allow for greater flexibility. Similarly, regarding the definition of an "affordable housing unit" under paragraph 2(2), they argued against specifying the plinth area and income thresholds, advocating for these details to be left to regulations for more prescriptive guidance that can adapt to evolving needs, tastes, preferences, and income thresholds over time.

Joint Committee observations

The Committee noted the stakeholders' concerns and proposed amendments

Clause 3

696. They proposed the inclusion of an additional Subclause 3(d) in the Bill to further enhance the objects and guiding principles, stating,

"promote sustainability in the implementation of housing development."

697. This addition is intended to complement Clause 10(2)(f) regarding the funding of activities incidental to the Fund's objects. The aim is to embed green finance as a central theme in the affordable housing agenda. They highlighted that specifications related to green affordable housing could be elaborated upon in the regulations, allowing for detailed guidance in this regard

Joint Committee Observations

The Committee noted that this is a function to be performed by the board

Clause 9

698. They proposed the inclusion of an additional subsection 9(f) in the Bill to expand the sources of funds for the Affordable Housing Fund, stating,

"monies from any other sources as may be determined by the Board from time to time."

Joint Committee Observations

The Committee noted the proposal by the stakeholders and will propose an amendment.

699. They emphasized that this provision would complement Section 13(2)(o) of the Bill, which mandates the Affordable Housing Board to identify, quantify, and recommend potential sources of revenue available to the Fund. This addition is intended to provide flexibility for the mobilization of funds from various sources, including Green Climate finance, to support the implementation of sustainable practices in affordable housing initiatives.

Joint Committee observations

The Committee noted the proposal by the stakeholders and will propose an amendment.

Clause 11

700. They proposed replacing the word '*shall*' with '*may*' in this section to grant flexibility and discretion to the Board regarding the allocation of funds. Additionally, they argued that specifying specific percentages of funds to particular agencies in the Bill is overly restrictive, as it may limit collaboration with other institutions or special purpose vehicles necessary for implementing the affordable housing agenda. Instead, they proposed that allocation from the Fund be outlined in the regulations, allowing for more flexibility. Furthermore, they suggested that the allocation criteria should be left to the discretion of the Board based on strategic needs over time, as guided by the regulations. They also propose amending Sections 13(2)(d) and 13(2)(e) of the Bill to remove cross-references to Section 11 concerning the allocation of funds by the Board

Joint Committee Observations

The Committee considered the proposal

Clause 11

701. In addition, they proposed the clause be expanded to include the Kenya Mortgage Refinance Company (KMRC) as an agency. They noted that KMRC operates as a joint venture between the government and the private sector, aimed at facilitating the provision of long-term funds to increase the availability of affordable home loans to Kenyans at fixed interest rates.

702. Notably, the government holds a significant 25% stake in the company. KMRC has demonstrated considerable capacity building within the housing sector and continues to play a pivotal role by aggregating market research and fostering collaboration among industry stakeholders in the housing ecosystem. Given its strategic position, they argue that KMRC is well-equipped to provide technical and policy support to the government in the implementation of the affordable housing agenda.

Clause 13(2)

They noted that considering the diverse composition and representative nature of the Board as outlined in Section 12(3), they proposed the removal of Section 13(2)(l) from the Bill. This section pertains to the Board's performance of duties as assigned by the Cabinet Secretary. They noted that this will enhance the independence and accountability of the Board in carrying out its responsibilities. Eliminating the requirement for duties to be assigned by the Cabinet Secretary will empower the Board to operate autonomously and effectively fulfill its mandate in the implementation of the affordable housing agenda.

Section 31(2)(a)

They said that the mandated ten percent deposit requirement stipulated in this Clause for an affordable housing unit could potentially serve as a barrier to entry. They argued that in some cases, partial credit or mortgage guarantee arrangements could effectively replace the necessity for a deposit. Therefore, they contended that prescribing deposit requirements within primary legislation is excessively restrictive. As an alternative, they proposed the removal of the specific deposit requirement from the legislation. If deemed necessary, they suggested that such details could be addressed in the regulations, alongside the inclusion of alternative mechanisms like insurance or guarantees. This approach, they believe, would offer greater flexibility and accommodate the diverse financial circumstances of potential homeowners.

Joint Committee observations

The Committee noted stakeholders' concerns and agreed to delete the amount of 10% as a deposit and further recommended that the deposit amount be prescribed in the regulations

Section 36

703. They noted that they observed an inconsistency in the reference to both interest rates and administration fees within Section 36 of the Bill, as well as the specification of absolute interest rate amounts for loans intended to finance the three categories of housing units. They suggested that a clear differentiation should be established between interest rates and administration fees to avoid confusion. Additionally, they had proposed that specific figures for interest rates and administration fees should not be prescribed within the Bill, as they were influenced by macroeconomic factors and could change over time. Instead, they had recommended that such details be outlined in the regulations, providing flexibility to adjust to evolving economic conditions while ensuring clarity and consistency in the implementation of the affordable housing program

KENYA NATIONAL REIT

704. They submitted as follows to the committee

Clause 13

705. In their proposal, they suggested inserting a new subclause, 13(2)(j), which states:
"identify such other potential sources of housing units that can be incorporated into the Affordable Housing Program provided that these units do not require any allocation of funds under section 11."

Joint Committee observation

The Committee noted the submission by the stakeholder and observed that the Bill does not prohibit the use of REITs to deliver affordable housing, the institution will be allowed to apply to the board

Clause 42

706. They also proposed inserting a new clause, 42(2)(g), which states: "the manner and form by which Real Estate Investment Trust may develop affordable housing units under the affordable housing program.

"They highlighted that the current version of the Bill does not acknowledge Real Estate Investment Trusts (REITs) as a viable avenue for implementing affordable housing schemes."

707. They noted that this new clause aims to address this oversight by specifying the mechanisms and procedures through which REITs can participate in developing affordable housing units under the affordable housing program.

Joint Committee Observations

The Committee noted the submission by the stakeholder and observed that the Bill does not prohibit the use of REITs to deliver affordable housing, the institution will be allowed to apply to the board

708. They further advocated for the insertion of a new clause, 42(2)(f), which states: "the management of the fund as established under section 8 to allow for private sector participation of institutions licensed by the Capital Markets Authority.

"They pointed out that the current version of the Bill fails to acknowledge the participation of private sector professionals in the management of the fund."

709. This seeks to rectify this omission by specifically addressing the inclusion of institutions licensed by the Capital Markets Authority in the management of the fund,

thereby facilitating private sector participation in the affordable housing program's management.

Joint Committee Observation

The committee noted the submission by the stakeholder

3.20 TANA RIVER COUNTY

Governor Tana River County

710. The Governor of Tana River proposed several key proposals to enhance the effectiveness and inclusivity of the Affordable Housing Projects. Firstly, emphasizing the need to address rural-urban migration, the Governor suggested initiating these projects in marginalized areas, which are significant contributors to migration, as a means to mitigate this phenomenon.

711. Additionally, the Governor highlighted the importance of prioritizing elders in the allocation process, advocating for their inclusion in Section 3 of the Bill. Furthermore, to strengthen the role of counties in housing matters, the Governor proposed the establishment of a county institution dedicated to coordinating housing initiatives. Given that counties will be providing land for these projects, the Governor emphasized the necessity for their increased involvement. Lastly, recognizing the financial burden imposed by the levy, particularly on formal employees servicing mortgages, the Governor suggested making the levy optional for this demographic, thereby offering greater flexibility and alleviating financial strain

Senator Tana River County

712. The Senator advocated for a more inclusive approach by suggesting that these projects should exclusively utilize government-owned land, potentially streamlining the acquisition process and ensuring greater accountability. Additionally, in a bid to foster local empowerment and economic development, the Senator proposed significant portion of employment opportunities within these projects be allocated to the local community, which will facilitate job creation and enhance community involvement.

713. Furthermore, recognizing the importance of extending support to marginalized communities, the Senator proposed the need to introduce a board position specifically designated for representatives from marginalized communities, promoting diversity and equitable representation. Lastly, in consideration of vulnerable demographics, such as retirees and individuals aged above 70 years, the Senator advocated for exemptions from certain provisions, acknowledging their unique circumstances and financial constraints.

Representative of the Office of the Women Representative Tana River County

714. The County MP expressed her support for the Bill, underscoring its significance in addressing critical housing challenges. She emphasized the importance of affordable housing as a fundamental human need and commended the Bill's objectives in facilitating access to decent and affordable housing for all citizens. Additionally, she praised the Bill's potential to stimulate economic growth, promote social stability, and enhance the overall quality of life for individuals and communities across the nation.

Jua Kali workers

715. They conveyed their support for the Bill, recognizing it as a pivotal opportunity for jua kali workers within the county to gain employment and contribute to local economic development. Their endorsement of the Bill stemmed from the belief that its implementation would not only address housing challenges but also serve as a catalyst for job creation, particularly within the jua kali sector. By expressing their support, they affirmed their confidence in the Bill's potential to uplift the livelihoods of jua kali workers and bolster economic growth within the county.

Dahir Daud – Chairperson of Civil Society Organisation

716. He raised several queries and proposals during his presentation regarding the implementation of the Affordable Housing Bill. Firstly, he sought clarification on the collection of the levy within the informal sector, emphasizing the need for clarity on the applicable rates and mechanisms for implementation.

717. Additionally, he proposed a reduction in the penalty fee for late payment, citing concerns over its harshness and advocating for a decrease to less than 1%. Furthermore, he questioned the categorization of housing units based on income, deeming it discriminatory and inconsistent with the principles of equality outlined in Article 27. As an alternative, he suggested implementing a progressive levy system that accounts for varying income levels. Lastly, he expressed a need for clarity on the specific agency responsible for handling Affordable Housing matters, highlighting the importance of clear guidance for Kenyans seeking assistance in this regard.

Joint Committee Observations

The Committee agreed with the stakeholders and noted that the penalties in the Tax Procedures Act will apply.

Tana Business Association

718. The Association voiced its support for the Bill, recognizing its potential as a significant source of employment and income generation within the county. Their endorsement of the Bill underscored their belief in its capacity to stimulate economic growth and provide valuable opportunities for individuals and communities.

Hola Technical Vocational Centre

719. The students expressed their support for the Bill, highlighting the invaluable training opportunities it would offer to students enrolled in vocational centers. They emphasized the significance of the Affordable Housing program not only as a means of acquiring practical skills but also as a gateway to future employment opportunities for vocational center graduates.

Youth Chair Galole Constituency, Chewani Ward

720. They also expressed their support for the Bill, acknowledging its significance as a vital source of employment, both directly and indirectly, for the youth. Their endorsement of the Bill highlighted their recognition of the crucial role it would play in addressing youth unemployment challenges by creating job opportunities within the affordable housing sector. They noted that the Bill will empower young individuals economically and contribute to their overall livelihoods. Their endorsement reflected a strong commitment to leveraging the opportunities presented by the Bill to enhance youth employment prospects and foster socio-economic development.

Tana River Residents

721. The residents expressed their support for the Bill, recognizing its potential to provide Kenyans with the opportunity to own decent and affordable housing. However, they raised concerns regarding the economic burden associated with the Levy and proposed its reduction to alleviate financial strain on citizens. Additionally, they proposed that a larger percentage of employment opportunities generated by the Affordable Housing Projects be reserved for the local community, emphasizing the program's role as a significant employer for Kenyans.

722. Further, some residents reiterated the proposal for reducing the Levy to mitigate economic challenges faced by individuals. Others suggested linking the Levy with retirement benefits, providing an alternative avenue for those not interested in purchasing a house to access the funds through their pension.

723. Additionally, they emphasized the necessity of establishing a project management committee to oversee the implementation of the Affordable Housing Projects, ensuring strategic placement and execution. Moreover, residents advocated for the active involvement of counties in the selection of project sites to enhance security, particularly in areas susceptible to security challenges.

Minority Communities

724. They voiced their support for the Bill, recognizing its significance as a crucial source of employment for all Kenyans, including the minority communities of Tana River County. Their endorsement of the Bill underscored their appreciation for the employment opportunities it would create, acknowledging its potential to uplift livelihoods across various demographic groups within the county. Additionally, the minority communities proposed a specific adjustment to the interest rates, advocating for a reduction to 5% for affordable market housing and 2% for social and affordable housing.

Chamber of Commerce – Tana River

725. They raised questions seeking clarification regarding the collection of levies from the non-formally employed and the applicable rate, highlighting a need for transparency and understanding in this aspect of the Affordable Housing Bill. Additionally, they expressed concerns about the ethical implications of interest rates, particularly from an Islamic perspective where the concept of interest is considered haram or prohibited. Their inquiries reflected a desire for clarity on these matters to ensure adherence to ethical principles and fair treatment of all individuals affected by the Affordable Housing Bill.

Wardei Community

726. They expressed their endorsement of the Bill, emphasizing their overall support for its objectives and initiatives. However, they also raised a crucial point regarding individuals in the formal sector who are currently servicing existing housing mortgages, expressing concerns about the potential economic burden that the levy may impose on them. Their inquiry sought clarity on how such individuals would be impacted by the levy and whether any provisions or considerations would be made to alleviate the financial strain they might face as a result.

Ormo Community

727. They conveyed their support for the Bill, recognizing the Affordable Housing Project as a vital source of employment opportunities, particularly for the youth within their community. In addition to expressing their endorsement, they put forth a proposal advocating for the active involvement of Kenyans during the site selection and allocation processes conducted by the Government. They noted that this will ensure transparency, community engagement, and inclusivity in the implementation of the Affordable Housing

Project, reflecting their proactive stance in shaping the development initiatives within their locality.

Maendeleo ya Wanawake

728. They voiced their endorsement of the Bill, recognizing its significance as a potential source of employment for Kenyans across various sectors. Additionally, they put forth a proposal advocating for the allocation of a significant portion of the employment opportunities generated by the Affordable Housing Projects to be reserved for the local community. They noted that the proposal aims to prioritize residents in accessing employment opportunities arising from the implementation of the Bill.

Joint Committee Observations

The Committee agreed with the stakeholder proposal and recommended that the Bill be amended to provide for the sourcing of labour from local communities in the development of affordable housing units

The National Treasury

729. In their submission to the Committee on 1st February 2023, they highlighted several key expectations regarding the Affordable Housing Bill, 2023. Firstly, they emphasized the importance of the bill in providing a legal framework to actualize Article 43(1)(b) of the Constitution, which guarantees the right to accessible and adequate housing. They expressed hope that the provisions within the bill would establish clear guidelines for realizing this constitutional mandate.

730. Secondly, they underscored the significance of the bill in ensuring adequate and predictable financing for the implementation of the affordable housing agenda, as outlined in the Bottom-Up Economic Transformation Agenda. By enacting this bill, they believed that the government would be better equipped to mobilize resources and allocate funds efficiently to address the housing needs of the population.

731. Moreover, they emphasized the importance of the governance structures established within the Affordable Housing Fund. They expected these structures to promote transparency and accountability in the utilization and management of the Fund, ensuring that resources are allocated judiciously and projects are executed effectively.

732. Lastly, they emphasized that the enactment of the bill would contribute to the enforcement of adherence to the Principles of Public Finance Management as outlined in Article 201 of the Constitution of Kenya. They noted that by establishing clear guidelines

and regulations for the implementation of the Affordable Housing Agenda, the bill would help ensure responsible and prudent management of public funds allocated to housing initiatives, ultimately benefiting the citizens and the economy as a whole

The Office of the Attorney General

The Attorney General of the Republic of Kenya appeared before the Joint Committee on 7th February 2024 and submitted as follows

733. He stated that under the interpretation and potential overlap regarding the housing function in the Fourth Schedule to the Constitution, specifically as the Bill is currently drafted, paragraph 20 of Part I of the Fourth Schedule provides that the National Government shall be responsible for the Housing Policy, whereas paragraph 8 of Part 2 of the Fourth Schedule provides that each county government shall be responsible for county planning and development including housing.
734. He linked this to Article 43(1)b) of the Constitution which provides that every person has the right to accessible and adequate housing, and to reasonable standards of sanitation. Additionally, he referred to Article 21 of the Constitution which provides that the State shall take legislative, policy and other measures, including the setting of standards, to achieve the progressive realization of the rights guaranteed under Article 43. He implied that it is the obligation of the collectivity of offices, organs, and other entities comprising the Government of the Republic of Kenya.
735. He further stated that the Bill aligns with the Constitution, under Clauses 8, 10, 12 and 13 by providing for the establishment of entities-the Affordable Housing Fund and Affordable Housing Board, to undertake legislative, policy and other measures, including the setting of standards, to achieve the progressive realization of the right to accessible and adequate housing, guaranteed under Article 43.
736. He also mentioned that the likelihood of potential overlap between the National Government and County Government about housing function is likely to be experienced in the area of planning and development as provided for under Clause 10 of the Bill. He proposed that any overlap in the discharge of the functions between the two levels of Government may be addressed through an express provision in the Bill providing for consultation and cooperation where such arises. He noted that if the issue of overlap is addressed in the Bill, it would align with Article 6 (2) of the Constitution, which emphasizes the distinct and interdependent nature of governments at both levels and mandates them to conduct their mutual relations through consultation and cooperation.

737. On the issue regarding whether the Bill effectively addresses the issues raised by the Court, the Attorney General noted that the High Court spent quite a bit of time on the failures in the establishment of the Housing Levy. By proposing to enact the Bill, therefore, the Government is responding to the ruling of the Court by establishing a legal framework for affordable housing and management of the funds to be collected under the proposed law. The bill further addresses the certainty of the law in terms of good governance, transparency, and accountability as envisaged under Article 10(2)(a) and (c) of the Constitution.
738. On the issue of the levy being discriminatory, the Attorney General pointed out that Clause 4(2) of the Bill addresses the concern by imposing the payment of the levy to both salaried and non-salaried persons. The provision states that the levy shall be at the rate of one-point five percent of the gross salary of an employee or the gross income of a person received or accrued which is not subject to paragraph (a).
739. About the issue of who is empowered to collect the levy, the Attorney General highlighted that Clause 4(3) of the Bill remedies the situation by providing that the levy shall be payable to the Collector. Clause 2 further defines a collector as the Kenya Revenue Authority or any other person appointed as such by the Cabinet Secretary for the National Treasury. Thus, the Attorney General emphasized that the draft Bill comprehensively addresses all three issues raised by the honorable Court.
740. Further, he stated that when it comes to the existence of the Housing Fund and structures under the Housing Act and whether there will be potential overlap or duplication of functions with the enactment of the Bill, it's important to understand the objectives of each legislation. He explained that the objective of the Housing Act is to provide for loans and grants of public money for the construction of dwellings. To achieve this objective, the Act establishes the National Housing Corporation funded through the National Housing Development Fund.
741. On the other hand, he continued, the objective of the Affordable Housing Bill is to provide a legal framework and a funding mode for the provision of affordable housing to Kenyans. He emphasized that the Act and the Bill complement each other through a structured way of giving effect to Article 43(1)(b) of the Constitution, which provides that every person has a right to access adequate housing and reasonable standards of sanitation.
742. However, he pointed out, that Section 7(3) of the Housing Act does not provide for the source of funds of the National Housing Development Fund to include allocations from the Affordable Housing Fund. He stressed that this would require a consequential

amendment to the Housing Act to ensure alignment and avoid potential conflicts or inefficiencies in the implementation of both legislations.

743. On whether the Bill aligns with the Public Finance Management Act, 2012, concerning the establishment of the Levy and the Fund, the Attorney General noted that Section 24(4) of the Public Finance Management Act provides that the Cabinet Secretary may establish a national government public fund with the approval of the National Assembly. Additionally, subsection (12) of the same section recognizes that a public fund may also be established through an Act of Parliament, stipulating that this section shall apply to all other national public funds, including funds earmarked for specific purposes established by an Act of Parliament.

744. The Bill, it was explained, proposes to establish the Management Board responsible for managing the Fund and allocating monies as envisaged under Clause 11. Furthermore, the Bill proposes to designate the Chief Executive Officer appointed under Clause 21 as the accounting officer of the Fund in line with section 24(10) of the Public Finance Management Act. It was asserted that the establishment of the affordable housing fund falls within the meaning of the Public Finance Management Act.

745. However, he emphasized that it is prudent to note the provisions of section 6(f) of the Public Finance Management Act, which requires that where there is inconsistency with any other Act of Parliament establishing a fund, the provisions of the Public Finance Management Act shall prevail. This underscores the importance of ensuring alignment between the provisions of the Bill and the requirements of the Public Finance Management Act to avoid any conflicts or inconsistencies in the management of public funds.

746. On the procedures for the transfer of public land on which the affordable housing projects are built, it was highlighted that Article 67(2) of the Constitution delineates one of the mandates of the National Land Commission, which is to manage public land on behalf of the national and county governments. Additionally, Article 68 (c)(ii) of the Constitution stipulates that Parliament shall enact legislation providing for how any land may be converted from one category to another. Moreover, Article 62(4) of the Constitution specifies that public land shall not be disposed of or otherwise used except in terms of an Act of Parliament specifying the nature and terms of that disposal or use.

747. In light of these constitutional provisions, it was noted that the Land Act was enacted by Parliament in 2012 to address such matters. Section 9 of the Land Act was cited, which provides that any land may be converted from one category to another as per the

provisions of the Act or any other written law and that public land may be converted to private land by allocation. Furthermore, subsection (5) of Section 9 empowers the National Land Commission to make rules, including those regulating and controlling the conversion of land from one category to another, and the factors to be considered in determining land that is to be converted.

748. Moreover, it was mentioned that Part III of the Land Act provides for elaborate procedures for the administration of public land, encompassing aspects such as leases, licensing, covenants and conditions of leases and licenses, and the development of buildings on public land, among others.

749. Consequently, it was asserted that the provisions for the management of affordable housing units developed on public land are adequately provided for in the Land Act and need not be replicated in the Affordable Housing Bill. This acknowledgment underscores the existing legal framework within which affordable housing projects on public land are to be managed and administered.

The National Land Commission

750. The Commission presented its observations to the Joint Committee during the review of the Bill, emphasizing that the Bill is designed to facilitate the establishment of Affordable Housing by creating a funding framework through the Affordable Housing Fund.

751. On the issue of the availability of Land for Affordable Housing, the Commission stated that the Bill is silent on access to land to actualize the affordable housing scheme. To address this gap, the Joint Committee may consider including a provision in the Bill referencing the Land Act, 2012, which provides a framework to access land for the development of affordable housing. The Commission highlighted Section 12(1) b of the Land Act, which allows either level of government to make an application for the allocation of public land specifically for a targeted group of persons or groups to ameliorate their disadvantaged position. Allocation for affordable housing could fall under such a category.

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753. On the Consultation & Cooperation among the Two Levels of Government, the Commission proposed leveraging the existing robust legal framework in the land sector by making provisions in the Bill for Public-Private Partnership and/or Public-Public Partnership with clear mechanisms for implementation and benefit sharing.
754. Over the issues of allocation of Funds, the Commission suggested that respective County Governments should be considered in the allocation of affordable housing funds to cater for incidental costs arising from the development of affordable houses. These costs include planning, surveying, registration costs, and other infrastructural costs both onsite and offsite.
755. Subsequently, the Commission proposed the following to the Joint Committee: That-
- I. There is a need to remedy the identified gaps either through relevant provisions in the bill or consideration during the formulation of Regulations/Guidelines/Standard Operating Procedures to operationalize the affordable housing scheme/fund.
 - II. Consider and draw from models used within the National Housing Corporation (NHC), National Social Security Fund (NSSF), and Civil Servants Housing Scheme in the implementation and eventual transfer of housing units to beneficiaries.


Joint Committee's Observation

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756. The Committee, having considered the Bill and the submissions from members of the public and stakeholders, made the following observations.

CHAPTER FOUR

4.0 COMMITTEE RECCOMENDATIONS

757. The Committee, having considered the Bill and the submissions from members of the public and stakeholders, made recommends that the House approves the Bill with amendments.

Signed.......... Date: 14th Feb, 2024

HON. CPA KURIA KIMANI, MP
(CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING

Signed.......... Date: 14/02/2024

HON. JOHANA NGENO, MP
(CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON HOUSING, URBAN PLANNING AND PUBLIC WORKS