

SUMMARY OF COMMENTS FROM STAKEHOLDERS ON THE NATIONAL RATING BILL, 2021

PARTS OF THE BILL	COMMENTS	RECOMMENDATION/JUSTIFICATION	CONSIDERED FOR THE BILL.	COMMENTS RECEIVED FROM
Short title and Commencement .	Amend the Title to include the word ' <i>Valuation</i> '	The Bill seeks to repeal the existing Rating Act and Valuation for Rating Act	Not Adopted. Valuation is simply an instrument. The Bill does not cover other purposes of valuations like auction and stamp duty	MR. Royford Kinyua; G.K Mutugi-Valuer; Internal Auditor General Department –The National Treasury & Planning; Council of Governors; County Government of Kiambu
Interpretation.	Definition of 'Chief Officer' delete land and replace with spatial planning to read as follows ' <i>means the county chief officer for the time in-charge of matters relating to spatial Planning</i> '	Some Counties have spatial planning in their counties	Reworded to read as follows: <i>The chief officer in charge of lands.</i>	State of Department of Planning; Mr. Isaac Nyoike-Valuer NMS; Mr. Philip Kutswa-Director Kakamega
	Rateable owner-Provide for nature of lease – 25 years for leasehold	Need to specify the time	Adopted	

	The Bill should also provide for fees and other charges that are levied on rates. Subsequently, the Bill should also provide rates and charges (rebates and deferments) to permit administrative	The Bill should be exhaustive	Not adopted. The proposal is beyond the mandate of this bill.	County; Turkana County; Council of Governors; Ministry of Defence;
	“Chief officer” means the county chief officer for the time be in charge of matters property valuation and rating in the respective County Government	Names and Port folios keep changing	Adopted.	County Government of Kitui.
	“Rating authority” means a County Government or County Government Agencies authorized to be rating authorities through a County Legislation	county has powers to delegate the role of collection rates to urban centres this need not to be legislated upon	The definition of rating authority retained to mean ‘county government’. The power to levy property rates is vested with the County Governments	
	Include the following definitions: Market Value, Site Value Rate, Unimproved Site Value, Improvement Value	For clarity purposes	Adopted	NLC
Objects of this Act.	Amend to read 2. (1) The objects of this Act are to— (a) <i>provide for a standard legislative framework in accordance with Article 209 (3) (a) in which the rating</i>	The objects amended as per the COG recommendation	Proposal adopted. Subjected to the legal drafters to incorporate	Council of Governors

	<p><i>authorities shall undertake valuation for rating and imposition of rates on rateable property;</i></p> <p><i>(b) enhance use of appropriate technology in undertaking valuation for rating and rating related purposes;</i></p> <p><i>(c) to provide for the role of each level of Government in respect to matters property valuation and rating;</i></p> <p><i>(d) to ensure rating authority legislations enacted on and valuation for rating laws are in conformity with</i></p>			
	Include the role of NLC in the objects of the Act	For clarity purposes	To be handled by the legal drafters	NLC
Use of technology.	Amend to read <i>'The rating authority shall ensure that all valuation rolls prepared are GIS based'</i>	Technology has been used in valuation for rating though was limited to use of excel sheets. This bill allows for use of sophisticated technology in preparation of valuation roll. Since technology changes overtime the county can adopt technology that best suites its purpose, some	The section retained as is.	Council Of Governors; County Government of Kitui; State Department of Housing and Urban Development; Ministry of Devolution

		counties do not have appropriate infrastructure for immediate adoption of GIS roll.		
	To outline the preference of spatial data based technological systems	For clarity	Decided that technology keep changing and this should be left broad to take care of these dynamics.	NLC, World Bank
Rateable owner	There is need to clarify who the rateable owner is, Occupier should not be a rateable owner	Clarify	Considered and clarified. The assumption is that the occupier is receiving services from the rating authority and therefore there is need for him/her to par rates	County Government of Kitui, CRA
Forms of rating.	<ul style="list-style-type: none"> The Bill has provided for three forms expand the forms to include agricultural value rating to cater for food security 	The special Rate for Agricultural Land is meant to address food security	Adopted. Counties are also mandated to involve the public when coming up with these rates	Mr. Isaac Nyoike-Valuer NMS; Jacob Nato-KIPPRA, World Bank, Ministry of Defence

Notice of rating.	<ul style="list-style-type: none"> • Extend period to 45 days • Adopt social platform in notifying the public 	Proposal adopted	Period extended to 60 days. Minimum requirements for adequate public notice have been considered	Council Of Governors, Ministry of Defence, CRA
Annual rental value rate	<p>Provide for use of ARV on specific properties to avoid increasing cost of production</p> <p>Add use of physical plans in rating</p>	Valuer is trained in planning and uses land use plans in valuation.	Section retained.	KEPSA
Setting of rate struck.	<ul style="list-style-type: none"> • Under Rate struck bring in the element of graduated scale (Banding). Banding accuracy of the values etc. or according to land uses. • Amend to read • 12.(1) The County Executive Committee Member responsible for matters finance shall set up the rates struck based on a criterion to be approved by the County Assembly. • There is need to cap the maximum rate the counties can charge 	The county government shall provide legislation on how to set rate struck	Section retained. It is difficult to achieve Maximum Rate especially where counties are using both improved site value and unimproved site value	Mr. Isaac Nyoike- Valuer NMS; Council of Governors,
Notice of rate	Add approved social media pages	To accommodate the growth in social media	The counties can include this in their regulations and how	TURKANA COUNTY, World Bank, IGRTC, CRA

			they will manage hacking of social media accounts	
Payment of rates	<ul style="list-style-type: none"> • Cap the interest rate at Central Bank rate • Penalty at prevailing CBK rate • Combine Enforcement with payment of rates to one section 	To avoid exploitation of the public by the county governments	Adopted	KEPSA; Bernard Kirui-Kenya Revenue Authority; Office of The Auditor General; Ministry of Defence; CRA
Remission of rates.	Delete the provision for remission of rates	Remission would create a loophole for tax avoidance	Not adopted. This cannot be removed from the bill since it contributes towards inclusivity, counties shall be guided to come up with regulations to guide.	Ag. Director National Sub County Treasuries, State Department of Transport
	Relook at the period to consider remissions of Rates by the County Assembly	30 are too few	Adopted. Period extended to 60 days	NLC
Enforcement of payment of rates.	<ul style="list-style-type: none"> • Include the options of summary judgements, eviction of property rates when the rates become excessive. 	To strengthen enforcement mechanisms	Adopted	Mr. Isaac Nyoike-Valuer NMS; Jacob Nato-KIPPRA

Recovery of rates.	Include: <i>Provided a current market valuation is carried out by an independent, registered and practicing valuer under Valuers Act Cap 532.</i>	To be exhaustive and comprehensive	Comment not adopted. The section to conform to requirements of land act No. 6 of 2012 on recovery of arrears and the Auctioneers	KEPSA, CRA
	During recovery of rates, the auction should comply with the provision in the Land Act on realizable value	To avoid politically motivated auctions	Adopted	NLC, State Department of Transport
	NLC to make rules of public land in consultation with Ministry of Lands	To respect the role of institutions	Adopted	NLC
Contribution in lieu of rates	<ul style="list-style-type: none"> • CILOR should be pegged on the annual rental value. • Include: <i>The Cabinet Secretary in consultation and agreement with the County Governments and the National Land Commission shall make rules to provide for the better implementation of this Section.</i> • Amend to read: <i>Without prejudice to the generality of subsection the Cabinet Secretary in consultation and agreement with the County Governments and the National Land Commission</i> 	The CS and NLC being the custodians of public land have the mandate of review the rolls to ensure that all public land is covered and that the right amount of CILOR is being claimed for.	Section amended to adopt the proposal by COG and give NLC its constitutional mandate.	Council Of Governors, World Bank, CRA, NLC

	<i>shall make rules for the following purposes under this section—</i>			
	Consider and accommodate the role of NLC in line with Article 67(2) (g) of the COK	To respect the role of institutions	<ul style="list-style-type: none"> Adopted. However payment to County Governments should not go through NLC. PFM Act requires all payments t County Governments to go through CRF 	NLC
Criteria to be a valuer.	<ul style="list-style-type: none"> The requirement of 7 years' experience is offensive. Proposed to reduce the minimum years of experience to 2 years Proposal to add a requirement that the Valuer must of good standing of a professional body 	This will lock out many qualified valuers in the name of experience	<ul style="list-style-type: none"> Declined. The years are critical since this is the person to be in charge in the entire county government Any valuer being registered by the Institute of Surveyors of Kenya is of good standing 	Ministry of Defence; County Government of Kiambu

Appointment of valuer.	<ul style="list-style-type: none"> • Appointment of valuers by rating authority shall be based on a competitive basis. • Provide the valuer with notice for identification. • Delete this section as it is captured in proposed amendments of section 24. These are functions of the rating authority and can decide to undertake the work provided 	<ul style="list-style-type: none"> • Appoint to follow public procurement law • This bill gives the basic qualification of the rating valuer and procedure for appointment of valuer. The rating authority may use county valuers, CGV or private valuers in undertaking valuation for rating. 	<ul style="list-style-type: none"> • Proposal adopted. 	Jacob Nato-KIPPRA Office of The Auditor General. Council of Governors
	Align this with the definition of a valuer	For consistency	Adopted	NLC
Responsibilities of a valuer.	Delete this section as it is captured in proposed amendments of section 24.	It is important to provide for clear rolls of the valuer in this bill.	Section retained	Council of Governors
Powers of valuer.	<ul style="list-style-type: none"> • Provide for security of the valuer • There is need to separate offences and sanctions for offences and increase the days for imprisonment to three years. 	<ul style="list-style-type: none"> • Administratively addressed by the rating authority. • If the rate payer is jailed for long it would be counterproductive as it would take long to access 		Kenya Revenue Authority.

		information for preparation of the roll.		
Chief Government Valuer.	<ul style="list-style-type: none"> • The CGV role should be limited to standardization in line with the spirit of devolution. Restrict the functions to National Policy development, norms and standards on property valuation and capacity building of counties, advise to the national government on matters property valuation and rating • Consider including a provision for the County Governments to hire their valuers- The Chief County Valuers 	There is need to guard the spirit of devolution	<p>Amended with the following considerations:</p> <ul style="list-style-type: none"> • The role of the chief government valuer expanded to include valuation of intercounty properties. • The office of the county valuer cannot be created in this bill, it is proposed that the valuers act cap 533 be amended to provide for valuation office at the county level. 	<p>Mr. Isaac Nyoike-Valuer NMS; KEPSA; Council of Governors, World Bank, County Government of Kitui, State Department of Housing and Urban Development; CRA , NLC, Ministry of Defence</p>

			<ul style="list-style-type: none"> • Bill does not restrict the counties from hiring their own valuers/Directors of Valuation. This is a power which has been left to the county government 	
General basis of valuation.	<ul style="list-style-type: none"> • Adopt market value as basis of valuation 	<ul style="list-style-type: none"> • Basis of valuation is market value as defined by IVS 2020 devoid of all encumbrances. 	Proposal adopted	KRA
Preparation of valuation rolls and supplementary valuation.	<ul style="list-style-type: none"> • Replace chief government valuer with director of valuation of the county. • Extend the time frame of valuation from the proposed 5 years to ten years 	<ul style="list-style-type: none"> • There is need to respect devolution • Preparation of Valuation Roll is expensive and ambitious to accomplish 	<ul style="list-style-type: none"> • The section amended in line with the spirit of devolution and the need to maintain standards by the Ministry of Lands • 5 years were retained with a possibility to extend 	Royford Kinyua, County Government of Kiambu

			the validity with 2 years	
Contents of draft valuation roll and draft supplementary valuation roll.	<ul style="list-style-type: none"> • Replace the words ‘every valuer’ with the ‘County Executive Committee Member ’ to read ‘County Director of Valuation shall prepare every draft valuation roll or draft supplementary valuation roll listing all properties within the county in such a manner as to show to the best of his knowledge and opinion in respect of every rateable property included– • Add Occupier and Beneficial Owner • Add Registration number of the Valuer 	<ul style="list-style-type: none"> • Preparation of the valuation roll can be done by the chief government valuer, the county valuer or a private valuer. • The frequency of change of occupier may be very high. In addition, County Governments have been given a leeway in the section to add any other information they consider necessary about the property 	Section retained	Council of Governors; County Government of Kiambu (CECM-Lands and Housing)
Alterations of the valuation roll and supplementary valuation roll.				

Deposit of draft valuation rolls.	<ul style="list-style-type: none"> • Upon receipt of the written report from the County Valuer, the County executive committee member shall cause the draft valuation roll to be tabled before the County Executive Committee for adoption and to the County Assembly for approval. • The County Assembly upon receipt shall within twenty-one days after receipt of the report consider it for adoption. • Allow for amendments after review by CECM and public participation 	<ul style="list-style-type: none"> • The roll of the chief government valuer is standardization and checking of the public land valuation roll, as the government valuer it is recommended that they confirm the contents of the report. • 	<p>Section retained</p> <ul style="list-style-type: none"> • This may affect the work of the Valuers as professionals. In addition, there is still room to amend this at the County Assembly 	Council of Governors; County Government of Kiambu
Publication of the Roll.				
Objections.	<ul style="list-style-type: none"> • Consider revising the fees downward to below kshs. 5000 to enable aggrieved persons access justice without hindrances such as cost. • The process of raising objection is not seamless • There is need to provide for Alternative Dispute Resolution Mechanism (ADRM) • Involving NLC and the Ministry of Lands in making regulations on objections in relation to public valuation roll is unnecessary 	There is no clear link of the objection to the appeal at the national rating tribunal. ADRM is cheaper, simpler and less time consuming	Process revised to take the concern into consideration. The proposal to reduce the objection fee to ksh 5000 was declined to minimise frivolous litigations. ADRM will be between the County	Office of the Auditor General; State Department of Transport; IGRTC; State Department of Housing and Urban Development;

			Government and the Rate Payers. Respective Counties to legislate on this. In addition, it is important to involve NLC and the Ministry in public valuation roll due to the role they play in payment of CILOR	
Uncontested draft valuation and draft supplementary valuation rolls.	Consider excluding contested parcels from the roll before publishing	With the rateable property running into 10 years, it is unlikely to have any contestations	Proposal dropped. Objections will only happen after finalization of the rolls and their subsequent publication	County Government of Kiambu
Exemptions.	Delete the whole section	public land” has the meaning assigned by Article 62 of the Constitution and includes the coast foreshore, river, dams lakes and other reserves under the Survey Act or under any other law;	Section retained to guide on standards in relation to exemptions	Council of Governors

	Include Golf Clubs in the list of exemptions	Historically Kenyans have enjoyed the facilities and this have resorted to development of the sport	Declined. Golf clubs are private and restricted. There is no justification to include them in the list of exemptions	Karen Golf Club
Establishment of a National Rating Tribunal.	Add two representatives of the Council of Governors into the tribunal	The bill adopts recommendation by Judicial Service Commission to set an ad hoc committee of 15 members with a quorum being 3 to enable it conduct business at different counties.	The proposal by JSC to set a National Rating Tribunal is adopted.	KEPSA; JSC; KRA Office of the Auditor General; Mr. Isaac Nyoike- Valuer NMS; Judiciary; Ministry of Defence; State Department of Transport; State Department of Public Service;
	Proposed to have this at the local level	Counties understand the local issues relating to property rates	Declined. Tribunals are squarely within the mandate of Judicial Service Commission	NLC, World Bank, County Government of Kitui, State Department of Housing and Urban

			(Ruling by Justice Ngugi). The Section was guided by advise from JSC	Development, State Department for Interior and Citizen Services; County Government of Kiambu, CRA
Notices.				
Regulations.	Remove the power of the Cabinet Secretary to make regulations from other sections of the Act. The provision covers the entire Act. There is need to clarify the role of County Governments, NLC and National Government in making of the regulations	Adopted. List of regulations to be provided by the CS, NLC and the rating authority has been listed.		KRA, World Bank, State Department of Public Service;
Interpretations/ Definitions				
Objects of the Act				
Use of Technology				

Setting of Rate Struck	Inclusion of sectional title holders as rateable owners	To take care of new developments in the property market especially in urban counties	Adopted	NLC
	Outline clear guidelines and factors to be considered in determining the rate struck	To encourage transparency, accountability and objectivity	Adopted. Included prevailing economic conditions and property values. Other considerations to be left at the purview of the County Governments in line with Article 209 (3) of the Constitution	NLC
	Use of improved site value	To enhance Counties OSR	Mandate given to the County Governments. They understand the dynamics/unique characteristics of their respective counties/rate payers and whatever method they use will be	NLC

			subjected to public participation	
	capping the rates to 5%	Affordability	Mandate given to County Government. 5% can also be so high especially where counties are using improved site value	NLC