MARSABIT COUNTY CLIMATE CHANGE FUND (AMENDMENT) BILL, 2025

A BILL for an Act of the County Assembly of Marsabit to amend the Marsabit County Climate Change Fund Act, 2020 to align with the Climate Change (Amendment) Act, 2023, and to provide for carbon market activities, community benefit sharing, and enhanced climate finance mechanisms; and for connected purposes

ENACTED by the County Assembly of Marsabit as follows---

PART I---PRELIMINARY

Short title and commencement

1. This Act may be cited as the Marsabit County Climate Change Fund (Amendment) Act, 2025, and shall come into operation upon publication in the County Gazette.

Amendment of section 2 of No. 3 of 2020

2. Section 2 of the Marsabit County Climate Change Fund Act, 2020, in this Act referred to as the "principal Act", is amended by inserting the following new definitions in proper alphabetical sequence---

"**aggregate earnings**" means the total of all income in a carbon project without adjustment for inflation, taxation or types of double counting;

"**carbon budget**" means the approved quantity of greenhouse gas emission that is acceptable over a specified time in the county;

"**carbon credits**" means a credit created when the equivalent of one metric tonne of carbon dioxide is prevented from entering the atmosphere;

"**carbon market**" means a mechanism that enables public and private entities to transfer and transact emission reduction units generated through carbon projects;

"**carbon offset**" means a reduction or removal of emissions of carbon dioxide or other greenhouse gases made to compensate for emissions made elsewhere;

"**carbon projects**" means interventions including programs, projects, and products designed to remove, reduce, sequester or avoid carbon emissions;

"**carbon standards**" means established rules, procedures, and methodologies that guide the generation and issuance of certified carbon credits;

"**community**" means a consciously distinct and organized group of users of community land who are citizens of Kenya and share common ancestry, similar culture, socio-economic interests, geographical space, ecological space, or ethnicity;

"**County Carbon Registry**" means the registry established under section 23H;

"**free, prior, and informed consent**" means community consent obtained without coercion, before project commencement, and based on full information disclosure;

"**mitigation outcomes**" means reductions in greenhouse gas emissions equivalent to one tonne of carbon dioxide;

"**nature-based solutions**" means actions that protect, sustainably manage, or restore natural ecosystems;

"**project proponent**" means an entity legally responsible for carrying out a carbon project;

"**stakeholder**" means a person, business, community or organization affected by carbon project activities;

"**voluntary carbon market**" means a market where entities voluntarily buy and sell carbon credits.

Amendment of section 3 of No. 3 of 2020

3. Section 3 of the principal Act is amended by adding the following new paragraphs immediately after paragraph (g)---

"(h) facilitating participation in carbon markets and carbon trading activities;

(i) ensuring community benefit sharing from carbon projects;

(j) establishing systems to track and monitor carbon-related activities in the county."

Amendment of section 5 of No. 3 of 2020

4. Section 5 of the principal Act is amended---

(a) by adding the following new paragraphs immediately after paragraph (g)---

"(h) revenues from carbon credit sales and carbon market activities;

(i) fees and charges from carbon project registration and verification;

(j) initial capital appropriated by the County Assembly, being not less than 3 percent of the annual county development budget and an annual appropriation by the County Assembly, which shall not be less than 2 percent of the county annual development budget."

Amendment of section 7 of No. 3 of 2020

2A. Section 7 of the principal Act is amended---

(a) by repealing subsection (1) and substituting therefor the following new subsection---

"(1) The Steering Committee shall comprise of not more than nine (9) members who shall be appointed by the Governor including---

(a) County Executive Committee Member responsible for matters related to climate change who shall be the chairperson;

(b) County Executive Committee Member responsible for matters related to Finance who shall be the secretary;

(c) County Executive Committee Member responsible for matters related to Agriculture;

(d) County Executive Committee Member responsible for matters related to Energy;

(e) County Attorney;

(f) Four (4) members nominated by the Executive Committee Member for appointment by the Governor who shall be persons representing---

(i) the Public Benefit Organizations active on matters climate change within the County;

(ii) the business community;

(iii) women; and

(iv) youth.";

(b) by inserting the following new subsections immediately after subsection (1)---

"(1A) A person shall not qualify to be nominated for appointment under subsection 1(f) unless the person has demonstrated experience, expertise and interest on issues of climate change, natural resource management or environmental conservation and has actively engaged with these issues in the county.

(1B) Without prejudice to the generality of subsection (1A), a person shall not qualify to be nominated for appointment under subsection 1(f) unless the person---

(i) is a resident of Marsabit County;

(ii) holds at least a diploma qualification from a reputable academic institution;

(iii) has relevant experience in any aspect of environment management, climate change or related field for at least five years; and

(iv) meets the requirements of Chapter Six of the Constitution.

(1C) Not more than two-thirds of the membership shall belong to the same gender and the Governor shall take this into consideration when appointing members under subsection 1(f).

(1D) Members shall serve for a period of three years and may be eligible for a second and final term of three years."

Amendment of section 9 of No. 3 of 2020

2B. Section 9 of the principal Act is amended by repealing the section and substituting therefor the following new section---

"**9.** The Steering Committee shall---

(a) oversee implementation of the Climate Finance Framework;

(b) ensure that projects approved for funding conform to the Climate Finance Framework, Fund Eligibility Criteria and existing law;

(c) oversee the execution of the County Climate Finance Budget in compliance with the Public Finance Management Act, 2013;

(d) oversee climate finance research and development in the County;

(e) support resource mobilization to implement projects, programs and activities listed in the Climate Finance Framework;

(f) provide the linkage between the County Executive and the County Assembly with regard to the management of the Fund;

(g) oversee county participation in carbon markets;

(h) approve major community development agreements;

(i) coordinate with national carbon market authorities; and

(j) any other matter incidental to the execution of the mandate of the Steering Committee."

Amendment of section 11 of No. 3 of 2020

2C. Section 11 of the principal Act is amended---

(a) by deleting subsections (2) and (3) and substituting therefor the following new subsection---

"(2) The Fund Administrator shall be appointed by the County Executive Member for Finance in consultation with the Executive Committee Member.";

(b) by inserting the following new subsection immediately after subsection (2)---

"(3) A person shall not qualify to be appointed as Fund Administrator unless the person---

(a) holds a degree qualification in environmental management, climate finance and related field from a reputable academic institution;

(b) is a citizen of Kenya;

(c) has relevant experience of not less than seven years in a relevant field; and

(d) meets the requirements of Chapter Six of the Constitution."

Amendment of section 13 of No. 3 of 2020

2D. Section 13 of the principal Act is amended by deleting the section.

Amendment of section 14 of No. 3 of 2020

2E. Section 14 of the principal Act is amended by repealing subsection (1) and substituting therefor the following new subsection---

"(1) The County Executive Member shall publish a Climate Finance Framework for the county every five years."

Amendment of section 15 of No. 3 of 2020

2F. Section 15 of the principal Act is amended by repealing subsection (1) and substituting therefor the following new subsection---

"(1) There is established a County Climate Change Fund Planning Committee which shall comprise Directors of the following departments nominated by their respective Chief Officers or relevant authority---

(a) Department of Environment and Climate Change, as the Secretary;

(b) County Treasury;

(c) Department responsible for Education;

(d) Department responsible for Trade;

(e) Department responsible for Agriculture, Livestock and Fisheries;

(f) National Drought Management Authority in the County;

(g) National Environment Authority in the County;

(h) Kenya Meteorological Department in the County;

(i) Kenya Wildlife Service in the County;

(j) Kenya Forest Service in the County; and

(k) One person representing Persons Living with Disability, nominated by Fund Participating Institutions.

(2) The County Planning Committee shall elect a Chairperson from its membership.

(3) A person shall not qualify to be nominated for appointment under subsection 1(k) unless the person has demonstrated experience, expertise and interest on issues of climate change, natural resource management or environmental conservation and has actively engaged with these issues in the county.

(4) Without prejudice to the generality of subsection (3), a person shall not qualify to be nominated for appointment under subsection 1(k) unless the person---

(a) is a resident of Marsabit County;

(b) holds at least a diploma qualification from a reputable academic institution;

(c) has relevant experience in any aspect of environment management, climate change or related field for at least two years; and

(d) meets the requirements of Chapter Six of the Constitution.

(5) Not more than two-thirds of the County Planning Committee shall belong to the same gender."

Amendment of section 16 of No. 3 of 2020

2G. Section 16 of the principal Act is amended by adding the following new paragraph immediately after paragraph (h)---

"(i) provide guidance in the development and implementation of carbon projects in the County in compliance with existing law."

Amendment of section 18 of No. 3 of 2020

2H. Section 18 of the principal Act is amended by repealing the section and substituting therefor the following new section---

"**18.** (1) A Ward Planning Committee shall be composed of not more than seven members appointed by the Executive Committee Member representing---

(a) 1 person who shall be the chairperson and who shall meet the following minimum qualifications---

(i) not be a public officer;

(ii) be a resident of the Ward;

(iii) able to read and write in English;

(iv) exhibits good leadership and trusted by the Ward community;

(v) proven track record of engaging in ward development initiatives;

(b) 4 people representing the main economic activities in the Ward;

(c) 1 person nominated by Community-Based Organizations actively engaged in climate change response activities in the Ward; and

(d) The Ward Administrator who shall be the Secretary and an ex-officio member with no voting rights.

(2) At least one-third of the members under subsection (1) shall not be of the same gender, include a competent person living with disability and a competent youth provided the total membership does not exceed seven.

(3) Nomination of members under subsection 1(b) and (c) shall be conducted by representatives of the respective groups at a meeting convened by the Ward Administrator for that purpose and presided over by the Sub-County Environment Officer or his designate.

(4) Ward Planning Committees shall---

(a) identify potential carbon project opportunities at ward level and facilitate community consultation for carbon projects;

(b) monitor implementation of carbon projects in the ward and report on carbon project benefits and impacts;

(c) organize quarterly climate awareness forums and document and integrate indigenous knowledge; and

(d) receive, review and submit project proposals from the ward."

Amendment of section 19 of No. 3 of 2020

2I. Section 19 of the principal Act is amended by adding the following new paragraphs immediately after paragraph (h)---

"(i) identify potential carbon project opportunities at ward level and facilitate community consultation for carbon projects; and

(j) monitor implementation of carbon projects in the ward and report on carbon project benefits and impacts."

PART II---INSERTION OF NEW PART

Insertion of new Part IVA

5. The principal Act is amended by inserting the following new Part immediately after Part IV---

"PART IVA---CARBON MARKETS AND COMMUNITY BENEFIT SHARING

County carbon markets framework

23A. (1) The County Government may engage in voluntary carbon markets for purposes of---

(a) generating carbon credits through nature-based and technological interventions; and

(b) selling, retiring, or transferring carbon credits in accordance with national and international frameworks.

(2) All carbon projects within the County shall comply with the requirements of the Climate Change (Amendment) Act, 2023, and any rules or guidelines made thereunder.

(3) The Executive Member, with approval of the Steering Committee, shall develop a County Carbon Markets Framework governing---

(a) eligibility criteria for carbon projects;

(b) community benefit sharing requirements;

(c) environmental and social safeguards; and

(d) project registration and verification procedures.

Environmental and social assessment

23B. (1) No carbon project shall be approved unless it has undergone an Environmental and Social Impact Assessment in accordance with the Environmental Management and Coordination Act, 1999.

(2) The County Government shall ensure that---

(a) assessment reports are made publicly available;

(b) affected communities have opportunity to review and comment;

(c) concerns raised are adequately addressed; and

(d) ongoing monitoring is conducted throughout project implementation."

PART III---CLIMATE CHANGE DUTIES AND PUBLIC PARTICIPATION

Insertion of new section 23G

6A. The principal Act is amended by inserting the following new section---

"Climate change duties

23G. (1) All County departments and public entities shall---

(a) integrate climate change considerations into all policies and programs;

(b) conduct climate risk assessments for all major projects;

(c) report annually on climate actions taken;

(d) designate climate change focal points;

(e) allocate budgets for climate action;

(f) ensure gender-responsive implementation;

(g) integrate the climate change action plan into sectoral strategies; and

(h) report on sectoral greenhouse gas emissions.

Climate risk integration

23H. (1) All County projects and programmes shall undergo climate risk assessment to---

(a) identify climate vulnerabilities;

(b) assess potential impacts;

(c) develop adaptation measures;

(d) ensure climate resilience; and

(e) protect investments."

PART VI---TRANSITIONAL PROVISIONS

Amendment of section 31 of No. 3 of 2020

12. Section 31 of the principal Act is amended by adding the following new paragraphs immediately after paragraph (d)---

"(e) community benefit sharing mechanisms; and

(f) carbon market participation procedures."

Amendment of schedules

13. The principal Act is amended by adding the following new schedules---

"FIFTH SCHEDULE---CARBON PROJECT ELIGIBILITY CRITERIA

1. Climate Impact Requirements

- Measurable emission reductions or carbon sequestration
- Contribution to county climate goals
- Alignment with national climate commitments

2. Community Benefit Requirements

- Direct benefits to local communities
- Equitable benefit distribution

- Respect for community rights

3. Environmental Standards

- Compliance with environmental laws
- Minimal negative environmental impact
- Sustainable resource use

SIXTH SCHEDULE---COMMUNITY DEVELOPMENT AGREEMENT ESSENTIALS

1. Required Elements:

- Project description and duration
- Stakeholder identification
- Benefit sharing percentages and mechanisms
- Community consultation procedures
- Grievance procedures
- Monitoring frameworks

2. Review and Amendment:

- Mandatory review every five years
- Community-initiated review procedures
- Amendment consensus requirements

SEVENTH SCHEDULE---PUBLIC PARTICIPATION PROCEDURES

1. Consultation Requirements:

- Early and meaningful consultation
- Information provision in local languages
- Feedback mechanisms
- Documentation of participation

2. Special Inclusion Measures:

- Women and marginalized groups participation
- Youth engagement protocols
- Disability-inclusive consultation methods
- Indigenous community consultation procedures"

PART VII---MISCELLANEOUS PROVISIONS

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Marsabit County Climate Change Fund Act, 2020, to align with the Climate Change (Amendment) Act, 2023; enhance county participation in carbon markets; strengthen governance structures; and ensure community benefit sharing from climate finance activities.

Statement of Objects

The objects of this Bill are to—

(a) align county climate legislation with national climate change laws and frameworks;
(b) establish a comprehensive framework for county participation in voluntary carbon markets;
(c) strengthen governance and institutional arrangements for climate finance management;
(d) ensure community participation and benefit sharing from carbon projects;
(e) enhance environmental and social safeguards for climate projects;
(f) establish robust monitoring, reporting and verification systems;
(g) create dispute resolution mechanisms for climate-related conflicts; and
(h) provide enforcement mechanisms and sanctions for non-compliance.

Part-by-Part Analysis

Part I—Preliminary Provisions

Clause 1 provides for the short title and commencement of the Act.

Clause 2 introduces new definitions aligned with the Climate Change (Amendment) Act, 2023, including "carbon credit," "carbon market," "carbon project," "climate change duties," "community," and other technical terms essential for carbon market operations and climate governance.

Part II—Governance Amendments

Clauses 3-9 strengthen institutional arrangements by:

- Restructuring the Steering Committee composition to enhance technical expertise (Clause 3);
- Improving qualification requirements for the Fund Administrator with emphasis on environmental management and climate finance (Clause 4);
- Standardizing timeframes and operational procedures (Clause 5);
- Enhancing nomination and appointment procedures for committee members (Clauses 6-8);
- Strengthening assessment and review processes (Clause 9).

Part III—Carbon Market Framework

Clause 10 introduces a comprehensive carbon market framework through eight new sections:

- **Section 16A** establishes the legal basis for county participation in voluntary carbon markets;
- **Section 16B** mandates Environmental and Social Impact Assessments with specific climate and social impact requirements;
- **Section 16C** requires free, prior, and informed consent from affected communities and integration of indigenous knowledge;
- **Section 16D** establishes mandatory 40% benefit sharing for local communities;
- **Section 16E** creates a County Carbon Registry aligned with national systems;
- **Section 16F** establishes monitoring, reporting and verification requirements;
- **Section 16G** creates a County Climate Dispute Board for conflict resolution; and
- **Section 16H** provides offences and sanctions for non-compliance.

Statement of Reasons

Constitutional and Legal Basis

This Bill is grounded in:

- Article 42 of the Constitution on the right to a clean and healthy environment;
- Article 69 on environmental obligations and sustainable development;
- Article 174 on principles of devolution including participatory governance and protection of marginalized communities;
- The Fourth Schedule to the Constitution which assigns environment and natural resources management to county governments;
- The Climate Change Act, 2016 (as amended in 2023); and
- The County Governments Act, 2012.

Policy Justification

Climate Change Imperatives: Marsabit County faces significant climate risks including recurrent droughts, erratic rainfall, and ecosystem degradation. These amendments enable the county to access new sources of climate finance while building resilience.

Carbon Market Opportunities: The global carbon market is valued at over USD 1 billion annually and growing rapidly. Kenya's participation in voluntary carbon markets offers significant opportunities for revenue generation and sustainable development, particularly for semi-arid counties like Marsabit.

Community Rights Protection: The Bill ensures that carbon projects deliver tangible benefits to local communities through mandatory benefit sharing, free prior and informed consent requirements, and dispute resolution mechanisms.

National Alignment: The amendments align county legislation with the Climate Change (Amendment) Act, 2023, which established national frameworks for carbon market participation and community benefit sharing.

Governance Strengthening: Enhanced institutional arrangements improve technical capacity, accountability, and coordination between county and national climate initiatives.

Financial Implications

The Bill does not impose additional financial burden on the county government. Instead, it creates new revenue streams through carbon market participation while ensuring efficient use of existing climate finance resources.

Environmental and Social Impact

The Bill promotes positive environmental outcomes through nature-based solutions, ecosystem restoration, and biodiversity conservation. Social benefits include job creation, capacity building, infrastructure development, and improved access to basic services for local communities.

Implementation

Implementation will require:

- Establishment of technical capacity for carbon project development and management;
- Development of community consultation protocols and grievance mechanisms;
- Creation of partnerships with technical service providers and certification bodies;
- Alignment of county planning and budgeting processes with new requirements; and
- Coordination with national climate institutions and agencies.

Conclusion

This Bill positions Marsabit County to benefit from emerging opportunities in carbon finance while ensuring strong protections for community rights and environmental integrity. It represents a balanced approach that aligns economic opportunities with sustainable development principles and constitutional requirements for participatory governance and environmental protection.

The amendments are essential for enabling the county to contribute to national climate goals while improving the livelihoods of its citizens, particularly pastoral and agro-pastoral communities who are most vulnerable to climate change impacts.