



REPUBLIC OF KENYA

TWELFTH PARLIAMENT (THIRD SESSION)

THE NATIONAL ASSEMBLY

MESSAGES

MESSAGE FROM THE PRESIDENT

_____ (No. 13 of 2019) _____

REFERRAL BY H.E. THE PRESIDENT OF THE FINANCE BILL, 2019

Honourable Members,

You may recall that on 26th September 2019, the National Assembly passed the Finance Bill (National Assembly Bill No. 51 of 2019). Thereafter, the Bill was presented for Assent to H.E. the President in accordance with the provisions of the Constitution and our Standing Orders. However, H.E. the President, by way of a Memorandum dated 16th October, 2019 has since referred the Bill back to the National Assembly for reconsideration, pursuant to the provisions of Article 115(1)(b) of the Constitution. H.E. the President has expressed reservation to Clause 45 of the Bill which relates to capping of interest rates chargeable on loans advanced by banks and other financial institutions.

In his Memorandum, H.E. the President highlights several factors that have necessitated the proposed amendment to Clause 45 of the Bill, which seeks to amend the Banking Act (Cap.488) by repealing section 33B so as to remove capping of interests rates chargeable on loans. These include the following:

- 1) The reduction of credit to the private sector, particularly Micro, Small and Medium Enterprises (MSMEs);
- 2) The decline in economic growth;
- 3) The weakening of the effectiveness of Monetary Policy;
- 4) The reduction of loan advances by banks;
- 5) The mushrooming of shylocks and other unregulated lenders in the financial sector;
- 6) The withdrawal of banks' lending to specific segments of the market;
- 7) The increase in average loan size, reflecting lower access by small borrowers and larger loans to more established firms; and
- 8) The decreased diversity of loan products.

Consequently, the President recommends an amendment to the said Clause of the Bill so as to resolve the above concerns.

Honourable Members, the Reservation of the President, as contained in his Memorandum, now stands committed to the Departmental Committee on Finance and National Planning for consideration. Standing Order 154(2) requires the House to consider the President's Reservations within twenty one (21) days upon receipt of the Memorandum. In this regard, the Committee ought to table its report soonest to allow the House to consider the President's Reservations within the said timeline.

In considering the Reservation, the Committee is expected to additionally apply itself to the question of the commencement date of the provision and the effect of the proposed amendment with regard to existing loan contracts between lenders, that is, banks and other financial institutions, and borrowers.

Honourable Members, may I, at this point, remind the House of the *Speaker's Communication* delivered on 28th July 2015 concerning the consideration of President's reservations to a Bill and amendments thereto. I particularly draw your attention to my guidance, that the voting threshold for the passage of amendments proposed by a Committee or an individual Member that have the effect of **fully accommodating** the President's reservations is a simple majority as contemplated under Article 122(1), as read together with Article 115(2)(a) of the Constitution.

On the other hand, an amendment that **does not fully accommodate** the President's reservations, or indeed one that has the effect of total override of the President's reservations, including negating his proposed text would require a **two-thirds voting** threshold to be passed in keeping with the provisions of Article 115(4) of the Constitution.

I wish to further reiterate that only the specific Clause of the Bill that has reservation, namely Clause 45, ought to be considered. I now direct the Clerk to circulate the Memorandum from H.E. the President to all Members so that you familiarize yourselves with its contents.

I thank you!



THE HON. JUSTIN B.N. MUTURI, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Thursday, October 17, 2019

