Insights

THOMAS LOUIS ADVOCATES

Kenya's Government is Done Borrowing to Build. Private Money is Now the Plan

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Infrastructure | Project Finance | Public-Private Partnerships

Introduction

Reading the KSh 4.82 trillion Budget on **11 June 2026**, Treasury Cabinet Secretary John Mbadi said, "The era of financing every road, every power line, and every dam through government borrowing and taxation is over." The reason is on the books. Debt service now swallows close to a third of the Budget, with Consolidated Fund Services near KSh 1.5 trillion, and the development budget is being cut. To bridge a roughly KSh 647 billion (about 5 billion US dollar) annual infrastructure gap, the state is turning to private capital, securitization of levies and a new National Infrastructure Fund.

Where the Money Will Come From

- **Public-private partnerships.** Structured under the Public Private Partnerships Act, 2021. The flagship is the Rironi to Nakuru Mau Summit Expressway, now under construction and financed with the National Social Security Fund as both lender and shareholder, alongside international investors, rather than sovereign borrowing.
- **Securitization of levies.** The state borrows against future levy income. The Kenya Roads Board is issuing a bond backed by future Road Maintenance Levy collections, part of it to clear contractor arrears. Treasury has lined up the Road Maintenance, Railway Development, Sports, Tourism and Affordable Housing levies for the same treatment.
- **The National Infrastructure Fund.** A new vehicle to pool capital for roads, energy and ports, with seed money expected from the sale of government shares in Kenya Pipeline Company and Safaricom.

The Risk that Could Sink a Deal

- Securitization pledges future public revenue to investors and routes it around the Consolidated Fund. The Law Society of Kenya has called it a "hidden debt mechanism" and signaled a court challenge.
- Any structure must hold up against Article 201 of the Constitution, which sets out the principles of public finance and against the Public Finance Management Act, 2012. Get this wrong and the financing could be exposed.

Your Next Play

- Building under a public-private partnership? The 2021 Act is now the main route to a deal. Get the partnership or concession structured properly at the outset, because the terms you set on risk, revenue and tenure will govern the project for its entire life.
- Those lending against a levy should insist the bond and securitisation documents are watertight since these instruments pledge revenue the state has not yet collected.
- Contractors owed money should understand how the arrears settlement works and what a bridge facility offers, then position your claim before the pool runs dry.
- If your project will draw on the National Infrastructure Fund, learn how that money flows and what it demands of you now. The Fund is new, and the first movers who understand its rules will reach the front of the queue.
- Securitization pledges future public revenue and routes it around the Consolidated Fund, which puts it on a collision course with Article 201 of the Constitution. Run a constitutional and debt-sustainability check on day one, not after the deal is signed.

THOMAS LOUIS ADVOCATES

CONTRIBUTORS

Thomas Louis

Founding Partner

Basil Ogolla

Trainee Advocate

www.tladvocates.com
tlouis@tladvocates.com
+254 115 702 315

THOMAS LOUIS ADVOCATES

TRUSTED COUNSEL | BOLD FUTURES

tlouis@tladvocates.com

+254 115 702 315

Millenium Business Park, Langata Road, Karen

www.tladvocates.com