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बुधवार, नोव्हेंबर २९, १९७८/अग्रहायण ८, शके १९००

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on 29th November 1978 :—

L. A. BILL No. LII OF 1978.

A Bill

further to amend the Maharashtra Housing and Area Development Act, 1976.

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XXV-
III of
1977.

WHEREAS it is expedient further to amend the Maharashtra Housing and Area Development Act, 1976, for the purposes hereinafter appearing ; It is hereby enacted in the Twenty-ninth year of the Republic of India as follows:—

1. This Act may be called the Maharashtra Housing and Area Development Short title. (Amendment) Act, 1978.

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Amendment
of section 70
of Mah.
XXVIII of
1977.

2. In section 70 of the Maharashtra Housing and Area Development Act, 1976, (hereinafter referred to as "the principal Act"), in sub-section (1), for the words "who has held judicial office not below the rank of a District Judge," the words "a person who has for at least ten years held any judicial office," shall be substituted.

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III of
1977.

Amendment
of section
191 of Mah.
XXVIII of
1977.

3. In section 191 of the principal Act, for clause (a), the following shall be deemed to have been substituted on the 21st November 1977, namely:—

"(a) in section 2, in clause (15) in paragraph (c), for sub-paragraph (ii), the following sub-paragraphs shall be substituted, namely:—

"(ii) the Authority constituted under the Maharashtra Housing and Area Development Act, 1976,

(iii) the Nagpur Improvement Trust constituted under the Nagpur Improvement Trust Act, 1936,";

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and
Berar
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VI of
1936.

Removal of
doubt.

4. For the removal of doubt, it is hereby declared that clause (a) of section 191 of the Maharashtra Housing and Area Development Act, 1976, which alongwith the other provisions of that Act, was brought into force on the 5th December 1977, shall come into force, and shall be deemed to have come into force, on that day, as amended by this Act, and the Nagpur Improvement Trust shall be deemed to have continued without any break as a local authority for the purposes of clause (15) of section 2 of the Maharashtra Regional and Town Planning Act, 1966.

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1966.

STATEMENT OF OBJECTS AND REASONS.

The Bill seeks to make certain amendments in the Maharashtra Housing and Area Development Act, 1976 which have been found necessary. The amendments proposed and the reasons therefor are as follows:—

Clause 2.—Section 70(1) of the Maharashtra Housing and Area Development Act, 1976, provides for an appeal from every order of the Competent Authority made in respect of any Authority premises under section 66 or 67 to an appellate officer. The appellate officer is required to be a person not below the rank of a Deputy Secretary to Government, having judicial or Legal Department experience, or a person who has held judicial office not below the rank of a District Judge. On account of existing high and rigid qualifications, difficulty is experienced by Government in getting suitable persons for appointment as appellate officer. In view of the nature of the cases required to be decided, on the lines of amendment made in section 2(i) of the Maharashtra Slum Areas (Improvement, Clearance and Re-development) Act, 1971, by Mah, XIII of 1978, it is proposed to amend section 70(1), so that a person who has held any judicial office for not less than ten years can also be appointed as the appellate officer.

Clause 3.—The Maharashtra Housing and Area Development Act, 1976, after having received the assent, was published in the *Official Gazette* on the 9th May, 1977. It provides for constitution of the Maharashtra Housing and Area Development Authority for the whole state, with four regional Boards for the Bombay area, the Vidarbha region, the Aurangabad area and the remaining areas of the State. Under section 188(1)(e) of the Act, as originally enacted, it was provided that the Nagpur Improvement Trust Act, 1936, should stand repealed, and the functions of the Nagpur Improvement Trust should be taken over by the Nagpur Housing and Area Development Board constituted for the Vidarbha region.

The Nagpur Improvement Trust was specifically constituted for concentrating on improvements of the Nagpur City. Government thought that by abolition and merger of this Trust with the Board, the concentration on the development of the Nagpur City was likely to suffer seriously. Therefore, in order to exclude the Nagpur Improvement Trust from the scope of the Housing and Area Development Act, an Amendment Bill was brought before the Legislature and the Maharashtra Housing and Area Development (Amendment) Act, 1977 was passed and published in the *Gazette* on the 21st November, 1977, before the Housing and Area Development Act, 1976, came into force. By the Amendment Act, which came into force on the date of its publication in the *Gazette*, section 188(1)(e) and other provisions in the Housing and Area Development Act relating to the Trust were deleted. The Housing and Area Development Act, *minus* the provisions relating to the Nagpur Improvement Trust, was then brought into force on the 5th December, 1977. Thus, the Nagpur Improvement Trust Act is not touched and the Trust continues to function without any break as before.

Section 2(15) of the Maharashtra Regional and Town Planning Act, 1966, defines the expression "local authority" for the purposes of that Act. It included the Nagpur Improvement Trust. By section 191(a) of the Housing and Area Development Act, because the Nagpur Improvement Trust was to cease to be a separate entity, it was provided that the reference to the Nagpur Improvement Trust in section 2(15) of the Regional and Town Planning Act should be replaced by a reference for the new Housing and Area Development Authority. As section 191(a) and other provisions of the Housing and Area Development Act have now been brought into force, it is noticed that the reference to the Nagpur Improvement

Trust in section 2(15) of the Regional and Town Planning Act should not be allowed to be deleted, but should be restored immediately with retrospective effect to enable the Trust to function as a separate planning authority under that Act as before and without any break.

The Bill is intended to achieve these objects.

Nagpur, dated the 27th November 1978.

B. S. SURVE,
Minister for Housing.

Nagpur, dated 29th November 1978.

G. S. NANDE,
Secretary,
Maharashtra Legislative Assembly.