

L. C. BILL No. XVI OF 2008.

A BILL

5 further to amend the *Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965.*

Bom
III of
1888.
Bom 10
LIX
of
1949.
C.P.
and
Berar
II of
1950.
Mah.
XL of
1965.

WHEREAS it is expedient further to amend the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, for the purposes hereinafter appearing; it is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY.

Short title. 1. This Act may be called the Maharashtra Municipal Corporations and Municipal Councils (Fifth Amendment) Act, 2008. 5

CHAPTER II

AMENDMENTS TO THE MUMBAI MUNICIPAL CORPORATION ACT.

Insertion of section 353B in Bom.III of 1888. 2. After section 353A of the Mumbai Municipal Corporation Act (hereinafter referred to as "the Mumbai Corporation Act"), the following section shall be inserted, 10 Bom. III of 1888.

Structural Stability Certificate.

" 353B. (1) Every owner or occupier of a building in respect of which a period of thirty years, from the date of,— 15

(i) issue of its completion certificate by the Corporation; or

(ii) issue of permission to occupy a building under section 353A; or

(iii) its physical occupation of at least 50 per cent. of 20 its builtup area,

whichever is earlier, has expired, shall cause such building to be examined by a Structural Engineer registered with the Corporation for the purposes of certifying that the building is fit for human habitation 25 (such certificate hereinafter referred to as "the Structural Stability Certificate"). The Structural Stability Certificate issued by such Structural Engineer shall be submitted to the Commissioner.

(2) The Structural Stability Certificate shall be 30 submitted within one year from the expiry of a period of thirty years referred to in sub-section (1), and every ten years thereafter or such earlier period as the Commissioner may determine having regard to the condition of the building and the corrective repairs carried 35 out by the owner or occupier.

(3) Notwithstanding anything contained in sub-section (1), the Commissioner may, at any time, after having recorded the reasons, in writing, direct the owner or occupier of a building, to cause such building to be 40 examined by such Structural Engineer and to submit to the Commissioner, the Structural Stability Certificate, as required under sub-section (1), within the period not

exceeding thirty days as specified by the Commissioner, in such direction.

5 (4) If the Structural Engineer recommends any corrective repairs for securing the structural stability of the building, such corrective repairs shall be carried out by the owner or occupier of a building to the satisfaction of the Commissioner.

10 (5) Any owner or occupier, as the case may be, who fails to carry out corrective repairs for securing structural stability, within a period of six months from the date of report of the Structural Engineer, shall be punished with the fine as provided in section 471.

15 (6) Notwithstanding anything contained in sub-section (5), the Commissioner may, after giving the owner or occupier, a notice in writing, require him to carry out, within the period specified in the notice, corrective repairs for securing structural stability of a building. If the owner or occupier fails to carry out such corrective repairs within the period specified in the notice, the
20 Commissioner may carry out the same and the expenses incurred by the Commissioner on such repairs shall, on demand if not paid within thirty days, be recovered from the owner or occupier as arrears of property tax.

25 (7) If there is any dispute about the amount of expenses for which demand is made under sub-section (6), an appeal may be preferred to the Chief Judge of the Small Causes Court, but no such appeal shall be entertained by the said Chief Judge, unless—

30 (i) it is preferred within twenty-one days from the date of receipt of notice of such demand;

(ii) the amount for which demand is made is deposited with the Corporation and a true copy of the receipt showing that the amount has been so deposited accompanies the appeal.

35 (8) In case the appeal is decided in favour of the appellant and the amount of expenses deposited with the Corporation is more than the amount payable by the appellant, the Commissioner shall adjust the excess amount with interest at 6.25 per cent. per annum from the date on which the amount is so deposited by the
40 appellant, towards the property tax payable by the owner in respect of such building thereafter.”

Commissioner may determine having regard to the condition of the building and the corrective repairs carried out by the owner or occupier.

5 (3) Notwithstanding anything contained in sub-section (1), the Commissioner may, at any time, after having recorded the reasons, in writing, direct the owner or occupier of a building, to cause such building to be examined by such Structural Engineer and to submit to the Commissioner, the Structural Stability Certificate,
10 as required under sub-section (1), within the period not exceeding thirty days as specified by the Commissioner in such direction.

(4) If the Structural Engineer recommends any corrective repairs for securing the structural stability of
15 the building, such corrective repairs shall be carried out by the owner or occupier of a building to the satisfaction of the Commissioner.

(5) Any owner or occupier, as the case may be, who fails to carry out corrective repairs for securing structural
20 stability, within a period of six months from the date of report of the Structural Engineer, shall be punished with the fine as provided in section 398 A.

(6) Notwithstanding anything contained in sub-section (5), the Commissioner may, after giving the owner or
25 occupier, a notice in writing, require him to carry out, within the period specified in the notice, corrective repairs for securing structural stability of a building. If the owner or occupier fails to carry out such corrective repairs within
30 the period specified in the notice, the Commissioner may carry out the same and the expenses incurred by the Commissioner on such repairs shall, on demand, if not paid within thirty days, be recovered from the owner or occupier as arrears of property tax.

(7) If there is any dispute about the amount of expenses
35 for which demand is made under sub-section (6), an appeal may be preferred to the Judge, before whom an appeal may be filed under section 406 of this Act; but no such appeal shall be entertained by the such Judge, unless—

40 (i) it is preferred within twenty-one days from the date of receipt of notice of such demand;

(ii) the amount for which demand is made is deposited with the Corporation and a true copy of the

receipt showing that the amount has been so deposited accompanies the appeal.

(8) In case the appeal is decided in favour of the appellant and the amount of expenses deposited with the Corporation is more than the amount payable by the appellant, the Commissioner shall adjust the excess amount with interest at 6.25 per cent. per annum from the date on which the amount is so deposited by the appellant, towards the property tax payable by the owner in respect of such building thereafter." 10

Insertion of section 398A in Bom. LIX of 1949. 5. After section 398 of the Provincial Corporations Act, the following section shall be inserted, namely:—

Penalty for contravention of section 265A. "398A. Whoever contravenes the provisions of section 265A, shall be punished with fine of twenty five thousand rupees or an amount equal to the property tax of the building concerned for a period of one year, whichever is higher." 15

CHAPTER IV

AMENDMENTS TO THE CITY OF NAGPUR CORPORATION ACT, 1948.

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Insertion of section 286A in C.P. and Berar II of 1950. 6. After section 286 of the City of Nagpur Corporation Act, 1948 (hereinafter referred to as "the Nagpur Corporation Act"), the following section shall be inserted, namely:—

C.P. and Berar II of 1950.

Structural Stability Certificate. "286A. (1) Every owner or occupier of a building in respect of which a period of thirty years, from the date of,— 25

(i) issue of its completion certificate by the Corporation; or

(ii) issue of permission to occupy a building under section 280; or 30

(iii) its physical occupation of at least 50 per cent. of its builtup area,

whichever is earlier, has expired, shall cause such building to be examined by a Structural Engineer registered with the Corporation for the purposes of certifying that the building is fit for human habitation (such certificate hereinafter referred to as "the Structural Stability Certificate"). The Structural Stability Certificate issued by such Structural Engineer shall be submitted to the Commissioner. 40

(2) The Structural Stability Certificate shall be submitted within one year from the expiry of a period of thirty years referred to in sub-section (1), and every ten years thereafter or such earlier period as the
5 Commissioner may determine having regard to the condition of the building and the corrective repairs carried out by the owner or occupier.

(3) Notwithstanding anything contained in sub-section (1), the Commissioner may, at any time, after having
10 recorded the reasons, in writing, direct the owner or occupier of a building, to cause such building to be examined by such Structural Engineer and to submit to the Commissioner, the Structural Stability Certificate, as required under sub-section (1), within the period not
15 exceeding thirty days as specified by the Commissioner in such direction.

(4) If the Structural Engineer recommends any corrective repairs for securing the structural stability of the building, such corrective repairs shall be carried out
20 by the owner or occupier of a building to the satisfaction of the Commissioner.

(5) Any owner or occupier, as the case may be, who fails to carry out corrective repairs for securing structural stability, within a period of six months from the date of
25 report of the Structural Engineer, shall be punished with the fine as provided in sub-section (2) of section 421.

(6) Notwithstanding anything contained in sub-section (5); the Commissioner may, after giving the owner or occupier, a notice in writing, require him to carry out,
30 within the period specified in the notice, corrective repairs for securing structural stability of a building. If the owner or occupier fails to carry out such corrective repairs within the period specified in the notice the Commissioner may carry out the same and the expenses incurred by the
35 Commissioner on such repairs shall, on demand if not paid within thirty days, be recovered from the owner or occupier as arrears of property tax.

(7) If there is any dispute about the amount of expenses for which demand is made under sub-section (6), an
40 appeal may be preferred to the District Court, but no such appeal shall be entertained by the said Court, unless—

(i) it is preferred within twenty-one days from the date of receipt of notice of such demand.

(ii) the amount for which demand is made is deposited with the Corporation and a true copy of the receipt showing that the amount has been so deposited accompanies the appeal.

(8) In case the appeal is decided in favour of the appellant and the amount of expenses deposited with the Corporation is more than the amount payable by the appellant, the Commissioner shall adjust the excess amount with interest at 6.25 per cent. per annum from the date on which the amount is so deposited by the appellant, towards the property tax payable by the owner in respect of such building thereafter.”

Amendment of section 421 of C.P. and Berar II of 1950. 7. In section 421 of the Nagpur Corporation Act, in sub-section (2), in the Table after entry relating to section 280, sub-section (4), the following entry shall be inserted, 15 namely :—

“ 286A	Provisions as to Structural Stability Certificate	Twenty thousand rupees or the amount equal to property tax of the building for a period of one year, whichever is higher.”	20
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CHAPTER V

AMENDMENT TO THE MAHARASHTRA MUNICIPAL COUNCILS, NAGAR PANCHAYATS AND INDUSTRIAL TOWNSHIPS ACT, 1965.

Insertion of section 193A in Mah. XL of 1965. 8. After section 193 of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, the following section shall be inserted, namely :— Mah. XL of 1965.

Structural Stability Certificate. “ 193A. (1) Every owner or occupier of a building in respect of which a period of thirty years, from the date of,— 35

(i) issue of its completion certificate by the Council; or

(ii) issue of permission to occupy a building under section 193; or 40

(iii) its physical occupation of at least 50 per cent. of its built up area,

whichever is earlier, has expired, shall cause such building to be examined by a Structural Engineer registered with the Council for the purposes of certifying that the building is fit for human habitation (such certificate hereinafter referred to as "The Structural Stability Certificate"). The Structural Stability Certificate issued by such Structural Engineer shall be submitted to the Chief Officer.

(2) The Structural Stability Certificate shall be submitted within one year from the expiry of a period of thirty years referred to in sub-section (1), and every ten years thereafter or such earlier period as the Chief Officer may determine having regard to the condition of the building and the corrective repairs carried out by the owner or occupier.

(3) Notwithstanding anything contained in sub-section (1), the Chief Officer may, at any time, after having recorded the reasons, in writing, direct the owner or occupier of a building, to cause such building to be examined by such Structural Engineer and to submit to the Chief Officer, the Structural Stability Certificate, as required under sub-section (1), within the period not exceeding thirty days as specified by the Chief Officer in such direction.

(4) If the Structural Engineer recommends any corrective repairs for securing the structural stability of the building, such corrective repairs shall be carried out by the owner or occupier of a building to the satisfaction of the Chief Officer.

(5) Any owner or occupier, as the case may be, who fails to carry out corrective repairs for securing structural stability, within a period of six months from the date of report of the Structural Engineer, shall be punished with the fine of rupees ten thousand or an amount equal to the property tax of the building for a period of one year, whichever is higher.

(6) Notwithstanding anything contained in sub-section (5), the Chief Officer may, after giving the owner or occupier, a notice in writing, require him to carry out, within the period specified, in the notice, corrective repairs for securing structural stability of a building. If the owner or occupier fails to carry out such corrective repairs within the period specified in the notice, the Chief Officer may carry out the same and the expenses incurred by the

Chief Officer on such repairs shall, on demand, if not paid within thirty days, be recovered from the owner or occupier as arrears of property tax.

(7) If there is any dispute about the amount of expenses for which demand is made under sub-section (6), an appeal may be preferred by the owner to the Property Tax Appeal Committee constituted under sub-section (2) of section 169 of this Act, but no such appeal shall be entertained by the said Committee, unless—

(i) it is preferred within twenty-one days from the date of receipt of notice of such demand ;

(ii) the amount for which demand is made is deposited with the Council and a true copy of the receipt showing that the amount has been so deposited accompanies the appeal. 15

(8) In case the appeal is decided in favour of the appellant and the amount of expenses deposited with the Council is more than the amount payable by the appellant, the Chief Officer shall adjust the excess amount with interest at 6.25 per cent. per annum from the date on which the amount is so deposited by the appellant, towards the property tax payable by the owner in respect of such building thereafter. 20

STATEMENT OF OBJECTS AND REASONS

While sudden collapse of "Laxmi Chhaya" Building in Borivali, Mumbai, and consequent loss of life, was being discussed in the State Legislature, the Government has assured that, to avoid recurrence of such incidents, the necessary amendments in the Municipal laws in operation in the State will be carried out.

2. The Government considers it expedient to amend the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, so as to make it obligatory on every owner or occupier of a building to submit a certificate from the Structural Engineer that the building is fit for human habitation. It is also proposed to provide that, if the Structural Engineer recommends certain corrective measures, it shall be obligatory on the owner or occupier of the building to carry out such repairs to the satisfaction of the Commissioner or the Chief Officer, as the case may be. It is also proposed to provide that the failure to carry out the directions by the Commissioner or the Chief Officer shall be punishable with fine. It is also proposed to empower the Commissioner or the Chief Officer, as the case may be, to undertake repairs, if the corrective repairs are not undertaken by the owner or occupier of a building and that the cost of such repairs shall be recoverable as an arrears of property tax.

3. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 10th December, 2008.

ASHOK CHAVAN,
Chief Minister.

MAHARASHTRA LEGISLATURE
SECRETARIAT

[L. C. BILL No. XVI OF 2008.]

[A Bill further to amend the
Mumbai Municipal Corporation
Act, the Bombay Provincial
Municipal Corporations Act, 1949,
the City of Nagpur Corporation
Act, 1948 and the Maharashtra
Municipal Councils, Nagar
Panchayats and Industrial
Townships Act, 1965.]

[SHRI. ASHOK CHAVAN,
Chief Minister.]

ANANT KALSE,
Principal Secretary,
Maharashtra Legislative Council.