



महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष ७, अंक २५(३)]

गुरुवार, डिसेंबर २३, २०२१/पौष २, शके १९४३

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असाधारण क्रमांक ६८

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Stamp (Amendment) Bill, 2021 (L. A. Bill No. XXXVII of 2021), introduced in the Maharashtra Legislative Assembly on the 23rd December 2021, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

SATISH WAGHOLE,

I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. BILL No. XXXVII OF 2021.

A BILL

further to amend the Maharashtra Stamp Act.

LX of
1958.

WHEREAS it is expedient further to amend the Maharashtra Stamp Act for the purposes hereinafter appearing; it is hereby enacted in the Seventy-second Year of the Republic of India, as follows:—

1. This Act may be called the Maharashtra Stamp (Amendment) Act, Short title. 2021.

LX of
1958.

2. In SCHEDULE I appended to the Maharashtra Stamp Act,—

Amendment of
SCHEDULE I
of LX of 1958.

(1) in article 6,—

(a) in clause (1), in sub-clause (b), in column (2),—

(i) for the words “ten lakh rupees” the words “twenty lakh rupees” shall be substituted ;

(ii) the following proviso shall be inserted, namely:—

“Provided that, in case of instrument executed in favour of consortium of banks, the duty chargeable shall not exceed fifty lakh rupees.”;

(b) in clause (2), in sub-clause (b), in column (2),—

(i) for the words “ten lakh rupees” the words “twenty lakh rupees” shall be substituted;

(ii) the following proviso shall be inserted, namely:—

“Provided that, in case of instrument executed in favour of consortium of banks, the duty chargeable shall not exceed fifty lakh rupees.”;

(2) in article 33, in clause (b), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) if possession is not so given,—

(A) if the amount of further charge secured by such deed does not exceed rupees five lakhs,	0.1 per cent. of the amount of further charge secured by such deed, subject to minimum of one hundred rupees;
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(B) in any other case,	0.3 per cent. of the amount of further charge secured by such deed, subject to maximum of twenty lakh rupees.”;
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(3) in article 40, in clause (b), in sub-clause (ii), in column (2),—

(i) for the words “ten lakh rupees” the words “twenty lakh rupees” shall be substituted;

(ii) the following proviso shall be inserted, namely:—

“Provided that, in case of instrument executed in favour of consortium of banks, the duty chargeable shall not exceed fifty lakh rupees.”;

(4) for article 41, the following article shall be substituted, namely :—

“**41. MORTGAGE OF CROP**,
including any instrument
evidencing an agreement to
secure the repayment of a loan
made upon any mortgage of a
crop whether the crop is or is
not in existence at the time
of mortgage,—

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| (i) if the amount secured by such deed does not exceed rupees five lakhs, | 0.1 per cent. of the amount secured by such deed, subject to the minimum of one hundred rupees; |
| (ii) in any other case, | 0.3 per cent. of the amount secured by such deed, subject to the maximum of twenty lakh rupees.”; |

(5) for article 54, the following article shall be substituted, namely :—

“**54. SECURITY BOND OR MORTGAGE DEED**, where such security bond or mortgage deed is executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof, or by a surety to secure the due performance of a contract, or in pursuance of an order of the court or a public officer, not being otherwise provided for by the Maharashtra Court-fees Act,—

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| (i) if the amount secured by such deed does not exceed rupees five lakhs, | 0.1 per cent. of the amount secured by such deed, subject to the minimum of one hundred rupees; |
| (ii) in any other case, | 0.3 per cent. of the amount secured by such deed, subject to the maximum of twenty lakh rupees: |

Provided that, where on an instrument executed by a person for whom a person stands surety and executes security bond or a mortgage deed, duty has been paid under article 40, then the duty payable shall be one hundred rupees.”.

XXXVI
of 1959.

Exemptions

Bond or other instrument,
when executed,—

(a) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem ;

(b) under the rules made by the State Government under section 114 of the Maharashtra Irrigation Act, 1976 ;

(c) by a person taking advance under the Land Improvement Loans Act, 1883 or the Agriculturists Loans Act, 1884 or by their sureties as security for the repayment of such advances ;

(d) by officers of the Government or their sureties to secure the due execution of an office or due accounting for money or other property received by virtue thereof.

Mah.
XXVIII
of 1976.

XIX of
1883.
XII of
1884.

STATEMENT OF OBJECTS AND REASONS

The stamp duty chargeable on the instrument evidencing mortgage by deposit of title deeds chargeable under article 6 of Schedule I appended to the Maharashtra Stamp Act (LX of 1958) was less than the simple mortgage deed chargeable under article 40 of the said Schedule before commencement of the Maharashtra Stamp (Amendment and Validation) Act, 2021 (Mah. III of 2021) (hereinafter referred to as "the said amending Act"). Therefore, by the said amending Act, the stamp duty chargeable on the instruments of mortgage by deposit of title deeds and simple mortgage deed under the said articles 6 and 40, respectively, have been made uniform. To accommodate revenue deficit due to the said amendment, maximum stamp duty limit of rupees ten lakh is specified in the said articles 6 and 40 needs to be increased to rupees twenty lakh.

2. In view of the judgement of the Hon'ble Supreme Court in the case of *Chief Controller Revenue Authority, Gujarat Vs. Coastal Gujarat Power Limited* (Civil Appeal No. 6054 of 2015), section 5 of the said Act have been amended by the said amending Act with a view to levy stamp duty in respect of any instrument comprising or relating to several distinct transactions. Due to this amendment of section 5, in case of instrument of mortgage by consortium of banks, each bank is liable to pay stamp duty in respect of an amount secured by such deed subject to maximum of ten lakh rupees. The Government, therefore, considers it expedient to specify maximum ceiling of stamp duty of rupees fifty lakh in case of instrument related to mortgage executed in favour of consortium of banks so as to support the industrial and commercial sector and to encourage timely payment of stamp duty.

3. The Government also considers it expedient to amend certain ancillary articles to articles 6 and 40 in respect of mortgage such as article 33 (further charge on mortgage property), article 41 (mortgage of crop) and article 54 (security bond or mortgage deed) to harmonize the levy of stamp duty in respect of mortgage under the said Act.

4. The Bill seeks to achieve the above objectives.

Mumbai,

Dated the 20th December 2021.

BALASAHEB THORAT,

Minister for Revenue.

FINANCIAL MEMORANDUM

Clause 2 of the Bill proposes to amend articles 6, 33, 40, 41 and 54 in Schedule I of the Maharashtra Stamp Act (LX of 1958), with a view to harmonize the levy of stamp duty in respect of mortgage under the said Act. There is no provision in the Bill which would involve the recurring or non-recurring expenditure from the Consolidated Fund of the State on its enactment as an Act of the State Legislature.