

The Maharashtra Municipal Property Tax Board Act, 2011

MAHARASHTRA

India

The Maharashtra Municipal Property Tax Board Act, 2011

Act 14 of 2011

- Published on 21 April 2011
- Commenced on 21 April 2011
- [This is the version of this document from 21 April 2011.]
- [Note: The original publication document is not available and this content could not be verified.]

The Maharashtra Municipal Property Tax Board Act, 2011 Maharashtra Act No. 14 of 2011 (First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 21st April, 2011. An Act to establish the Maharashtra Municipal Property Tax Board. Whereas both Houses of the State Legislature were not in session; And Whereas the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to establish the Maharashtra Municipal Property Tax Board, for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Municipal Property Tax Board Ordinance, 2011, on the 10th March, 2011; And Whereas it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixty-second Year of the Republic of India as follows :-

Chapter I Preliminary

1. Short title and commencement.

(1) This Act may be called the Maharashtra Municipal Property Tax Board Act, 2011. (2) It shall be deemed to have come into force on the 10th March, 2011.

2. Definitions

(1) In this Act, unless the context otherwise requires, -(a) "Board" means the Maharashtra Municipal Property Tax Board constituted under section 3; (b) "Chairperson" means the Chairperson of the Maharashtra Municipal Property Tax Board; (c) "Member" means the Member of the Maharashtra Municipal Property Tax Board; (d) "Municipal Act" means the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948

or the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, as the case may be; (e) "Property Tax" means the property tax leviable and payable under the relevant Municipal Act. (2) Words and expressions used in this Act but not defined hereinabove shall have the same meanings as respectively assigned to them in the relevant Municipal Act.

Chapter II

Establishment Of Maharashtra Municipal Property Tax Board

3. Constitution of Board

(1) The State Government shall, by notification in Official Gazette, constitute a Board to be known as the Maharashtra Municipal Property Tax Board to exercise the powers conferred on, and to perform the functions assigned to it, under this Act. (2) The board shall be a body corporate, having perpetual succession and a common seal, and shall have the power to acquire, hold and dispose of the property, both movable and immovable and to contract and shall, by the name as aforesaid, sue or be sued.

4. Composition of Board

(1) The Board shall consist of a Chairperson and not exceeding four other Members. (2) The Chairperson shall be a person who is a retired judge of the Supreme Court or a High Court or a retired officer who has been Chief Secretary or an Additional Chief Secretary to the State Government or Secretary to the Government of India. (3) The other Members shall be the persons who have adequate knowledge and experience in the field of municipal administration, or valuation of properties or dealing with problems relating to urban affairs, municipal finance, economics, engineering, law or management.

5. Appointment of Chairperson and Members and Chairperson and Members not to have financial or other interest.

(1) The Governor shall, on the advise of the State Government, appoint a person as chairperson and other Members of the Board. (2) The person appointed as a Chairperson or a Member of the Board must not have any financial or other interest which is likely to prejudicially affect his function as a Chairperson or a Member of the Board or hold any share or interest, whether in his own name or otherwise in the body corporate or association of persons or a firm that is engaged in the business of construction of buildings providing housing accommodation and carrying on business of sale or disposal of flats in such buildings. (3) The appointments of the Chairperson and the Members of the Board shall be notified in the Official Gazette. (4) The person appointed as the Chairperson and Members of the Board shall, before entering upon office, make and subscribe before the Governor an oath or affirmation according to the form as prescribed by rules. (5) The person appointed as a chairperson or a Member of the Board may, by writing under his hand addressed to the Governor, resign his office.

6. Removal of Chairperson and Members.

- The Governor, on recommendation of the State Government, may, by order, remove from office the chairperson or any other Member, if he :-(a)has been adjudged as an insolvent, or(b)has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude, or(c)has become physically or mentally incapable of acting as a Chairperson or a Member, or(d)has acquired such financial or other interest as is likely to affect prejudicially his functioning as a Chairperson or a Member, or(e)has so abused his position so as to render his continuance in office prejudicial to the public interest.

7. Term of office, salaries and allowances and other conditions of service of Chairperson and Members.

(1)The Chairperson and the other Members shall hold office as such for a term of five years from the date of entering upon office, but shall not be eligible for re-appointment:Provided that, no Chairperson or any other Member shall hold office as such after he has attained,-(a)in case of Chairperson, the age of Sixty-five years, and(b)in case of any other Member, the age of Sixty-Two years.(2)The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and the other Members shall be such as may be prescribed by rules.(3)The salaries and allowances payable to, and other conditions of service of, the Chairperson and the other Members shall not be varied to their disadvantage after the appointment.(4)If the post of Chairperson becomes vacant for any reason, the Governor may appoint any Member to hold the additional charge of the post of Chairperson till the post is filled in by a regular appointment.

8. Headquarters of, and transaction of business of Board.

(1)The Headquarters of the Board shall be at Mumbai and the Board shall normally sit at Mumbai, but may hold its sittings at any other places within the State as the exigency of the work of the Board may require.(2)The Board shall observe such rules of procedure in regard to transaction of its business at its meeting including quorum as may be prescribed by rules.(3)The Chairperson shall preside over the meetings of the Board and if the Chairperson, for any reason, is unable to attend a meeting of the Board, any other Member of the Board chosen by the Members present at the meeting from amongst themselves shall preside at the meeting.(4)All questions which come up before any meeting of the Board shall be decided by majority of the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding, shall have a second or casting vote.(5)The Chairperson shall be first among equals and shall have the powers of general superintendence and directions in the conduct of the affairs and administrative matters of the Board and shall exercise and discharge such other powers and functions of the Board, as may be assigned to him by the Board.

9. Vacancy, etc. not to invalidate proceedings of Board.

- No act or proceedings of the Board shall be invalid merely by reason of, -(a)any vacancy or any defect in the constitution of the Board; or(b)any defect in the appointment of the Chairperson or a Member of the Board; or(c)any irregularity in the procedure of the Board not affecting the merits of the case.

10. Officers and employees of Board

(1)The Board may create such posts of officers and employees and fill up such posts as may be approved by the State Government.(2)The Terms and conditions of services including salaries and allowances of the officers and employees appointed under sub-section (1) and sub-section (5) shall be such as are applicable to the officers and employees of equivalent grades and scales under the State Government.(3)The Board may takeover and employ such staff of the State Government, as State Government may make available.(4)All Government employees taken over and employed under sub-section (3), shall have a lien on their post in the service of the State Government and the period of their service under the Board shall, on repatriation to the service of the State Government, be counted for the purpose of their promotion, increments, pensions and other matters relating to their service.(5)The Board shall have a Secretary, who shall be appointed by the State Government, to exercise such powers, and perform such duties, under the control of the Chairperson, as may be specified by regulations made by the Board.(6)The Board may appoint consultants or Committees of experts to assist the Board in the discharge of its functions on such terms and conditions as the Board may, by order, determine.

11. Expenditure incurred on account of salaries and allowances including contingencies.

(1)The expenditure incurred by the Board for meeting the salaries and allowances including contingencies of the Chairperson, Member, Secretary and officers and employees serving under the Board shall be defrayed out of the Municipal Property Tax Board Fund constituted under section 16.(2)The expenditure towards contingencies for maintaining normal financial activities shall be met out of the aforesaid Fund.

Chapter III

Functions Of Board

12. Functions of Board.

- Notwithstanding anything contained elsewhere in this Act or any other law for the time being in force, the Board shall discharge the following functions, namely :-(a)To do audit of the assessment done by the Commissioner of a Municipal Corporation or as the case may be, the Chief Officer of a Municipal Council for levying the property tax, on various categories of properties and to revise the

assessment, if found necessary, and to recommend action against concerned persons if it is found that mis-valuation is done with mala fide intention or arbitrariness.(b)On a joint reference made by the Commissioner of a Municipal Corporation or the Chief Officer of a Municipal Council, as the case may be, and any property tax payer, to tender advice or to determine the terms of compromise in case of a dispute between the property tax payer and the Commissioner of a Municipal Corporation or as the case may be, the Chief Officer of a Municipal Council, where both the parties want to amicably settle their dispute which may or may not be pending before any Court of law, for which the Board may charge fees as decided by the Board with the approval of the State Government.(c)As and when required by the Government to do so, -(i)to review the property tax system and suggest suitable basis for valuation of properties and assessment of property tax;(ii)to design and formulate transparent procedure for ensuring quality and transparency in valuation or assessment process and facilitating disclosure of valuations for fair comparison of properties as well as inspection of the same for verification;(iii)to recommend modalities for periodic revision of the property tax assessment.(d)To render such other advice on valuation of properties or assessment of property tax as the State Government may, from time to time, require the Board to do, considering their experience.(e)To discharge such other functions in the field of valuation or property tax assessment including development of expertise in valuation of lands and buildings.(f)To undertake directly or through any institution, training of officers and employees of Corporations and Councils as the State Government may direct or as the Board may consider necessary for carrying out the purposes of this Act.(g)To Collect and record information concerning the property tax in the State.(h)To aid and advise the State Government on any other related matters referred to the Board by the State Government.

13. Production and inspection of accounts and documents.

- The Board or any of its officers authorized by the Board may, subject to such conditions as may be prescribed by rules, require the owner or the occupier of any land or building to produce before the Board or such officer within such time as the Board or such officer may fix, any accounts, registers or documents or to furnish any information relating thereto as may be considered necessary for the purpose of audit of the assessment of the property done by the Commissioner of a Municipal Corporation or the Chief Officer of a Municipal Council, as the case may be.

14. Power to enter into land or building.

(1)Any officer of the Board, when so authorized by it in writing, may, by giving previous notice to the owner, or the occupier, of any land or building, at all reasonable hours, enter into such land or building and make an inspection or survey, or take measurements, thereof for the purpose of audit of the assessment of the property done by the Commissioner of the Municipal Corporation or, as the case may be, the Chief Officer of the Municipal Council.(2)After the officer authorized under sub-section (1) gives notice in writing to the owner or the occupier of any land or building, of his intention to enter into such land or building, the owner or the occupier of such land or building shall, upon such notice being duly served on him, extend all facilities as may reasonably be expected of him to such officer for entering into such land or building and for making inspection or survey, or for taking measurements thereof, as the case may be, for the purpose of audit of the assessment of

the property tax done by the Commissioner of the Municipal Corporation or, as the case may be, the Chief Officer of the Municipal Council.

Chapter IV

Finance, Accounts And Audit

15. Grants and advances to Board.

(1)The State Government may, after due appropriation made by the State Legislature, by law in this behalf, make such grants and advances to the Board as the State Government may think fit for the purposes of its functions and its duties, and all grants and advances so made shall be on such terms and conditions as the State Government may think fit.(2)For the purpose of giving grant to the Board, it shall be lawful for the State Government to levy a cess at such per centum of the rateable value or the capital value of the properties, as the case may be, as may be notified in the Official Gazette, which shall be collected by the Corporations and the Council and remitted to the State Government. The State Government shall every year, pay to the Board, a grant-in-aid approximately equal to the amount collected on account of the cess levied under this section, in such manner as may be prescribed by rules.

16. Constitution of Board Fund.

(1)There shall be constituted a Fund to be called "Municipal Property Tax Board Fund" and to which shall be credited thereto,-(a)any Government grants and advances received, and fees and charges, if any, levied under this Act or the rules made thereunder, and(b)all sums received by the Board from such other sources as may be decided upon by the State Government.(2)All moneys received by the Board shall be deposited in one or more nationalized banks.(3)The Fund shall be applied for meeting,-(a)the salaries, allowances and other remunerations of the Chairperson and the Members, officers and other employees of the Board,(b)other expenses of the Board in connection with the discharge of its functions and for the purposes of this Act.

17. Budget of Board.

- The Board shall prepare, in such form, and at such time in each financial year, as may be prescribed, by rules, its budget for the next financial year, showing the estimated receipts and expenditure of the Board, and forward the budget to the State Government.

18. Accounts and Audit of Board.

(1)The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be determined by the State Government in consultation with the Comptroller and Auditor-General of India.(2)The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be determined by him, and

any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.(3)The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of accounts of the Board under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.(4)The accounts of the Board, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the Board and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of the State Legislature.

19. Delegation of powers and functions by Board.

(1)The Board may delegate any of its powers and functions including financial powers to the Chairperson of the Board.(2)The Board may also delegate any of its powers or functions to any other officers of the Board by a resolution adopted by it in this behalf.

20. Chairperson, Members, officers and employees to be public servants.

- The Chairperson and every Member of the Board or every officer or employee of the Board shall, when acting or purporting to act under the provisions of this Act, be deemed to be a public servant within the meaning of section 21 of the Indian Panel Code, Section 197 of Code of Criminal Procedure, 1973 and clause (c) of section 2 of the Prevention of Corruption Act, 1988.

21. Appeal against Board decision.

(1)Any person aggrieved by any decision or order of the Board may file an appeal to the High Court.(2)Except as aforesaid, no appeal or revision shall lie to any Court from any decision or order of the Board.(3)Every appeal under this section shall be preferred within sixty days from the date of communication of the decision or order of the Board to the person aggrieved by the said decision or order:Provided that, the High Court may entertain an appeal after the expiry of the said period of sixty days, if it is satisfied that the aggrieved person had sufficient cause for not preferring the appeal within the said period of sixty days.

Chapter V

Power To Make Rules And Regulations

22. Rules.

(1)The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(2)Every such rules made under this Act shall be laid, as soon as may be, after it

is made, before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agrees in making any modification in the rule or both Houses agree that the rule should not be made and notify such decision in the Official Gazette, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be; so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

23. Regulations.

(1)The Board may, with the previous approval of the State Government, make regulations consistent with the provisions of this Act and the rules made thereunder for carrying out the purposes of this Act.(2)The State Government may, in according such approval, make such additions, alterations and modifications therein as it thinks fit:Provided that, before making such additions, alterations or modifications, the State Government shall give the Board an opportunity to express its views thereon within such period not exceeding two months as may be specified by the State Government.(3)All regulations approved by the State Government shall be published in the Official Gazette.

Chapter VI

Miscellaneous

24. Transparency in functioning of Board.

- The Board shall ensure transparency while exercising the powers and discharging the functions under this Act.

25. Proceedings before Board to be judicial proceedings.

- All proceedings before the Board shall be deemed to be judicial proceedings within the meaning of section 193 and section 228 of the Indian Penal Code and the Board shall be deemed to be a Civil Court for the purposes of section 345 and section 346 of the Code of Criminal Procedure, 1973.

26. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the State Government or the Board or any officer of the State Government or any Member officer or other employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules and the regulations made thereunder.

27. Power of State Government to supersede the Board.

(1)The State Government may, by notification in the Official Gazette, and for reasons to be specified therein, supersede the Board for such period, not exceeding six months, as may be specified in the notification and appoint a person possessing any of the qualifications laid down in sub-section (3) of section 4 to be the Administrator to discharge the functions and perform the duties of the Board:Provided that, before issuing any such notification, the State Government shall h\ give reasonable opportunity to the Board to make representation against the proposed supersession and shall consider the representation, if any, of the Board.(2)Upon the publication of notification under sub-section (1) superseding the Board,-(a)the Chairperson and other Members shall, as from the date of supersession, vacate their offices as such;(b)all powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board shall, until the Board is reconstituted under sub-section (3), be exercised or discharged by such Administrator;(c)all properties owned and controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the State Government.(3)On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the State Government shall reconstitute the Board by fresh appointment of the Chairperson and other Members and in such case, any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for re-appointment.(4)The State Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of the State Legislature at the earliest.

28. Direction by State Government.

(1)In the discharge of its functions, the Board shall be guided by such directions in matters of policy involving public interest as the State Government may give to it in writing.(2)If any question arises as to whether any such directions relates to a matter of policy involving public interest, the decision of the State Government thereon shall be final.

29. Removal of difficulty.

(1)If any difficulty arises in giving effect to the provisions of a Municipal Act or rules contained therein or made thereunder as they stand amended by this Act, the State Government may, as occasion arises, by order, take such action, not inconsistent with the provisions of the Municipal Act as amended by this Act, as appears to it to be necessary for the purpose of removing such difficulty:Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.(2)Every such order made under sub-section (1) shall be laid, as soon as may be, after it is made before each House of the State Legislature.

30. Amendment of certain enactments.

- The enactments specified in the Schedule appended to this Act shall stand amended in the manner

and to the extent specified therein.

31. Repeal of Maharashtra Order XI of 2011 and saving.

(1)The Maharashtra Municipal Property Tax Board Ordinance, 2011, is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of this Act.

Schedule

(See Section 30)Amendment To The Mumbai Municipal Corporation Act

1. Insertion of section 219A in Bombay III of 1888. - After section 219 of the Mumbai Municipal Corporation Act, the following section shall be inserted, namely :-

"219A. Assessment subject to valuation or revision by Municipal Property Tax Board.(1)Notwithstanding anything contained in sections 217, 218, 218A, 218B, 218C, 218D, 218E and 219, every rateable value or the capital value, as the case may be, shall be subject to the valuation or revision by the Maharashtra Municipal Property Tax Board established under section 3 of the Maharashtra Municipal Property Tax Board Act, 2011 (hereinafter referred to as "the Municipal Property Tax Board").(2)Notwithstanding anything contained in this Act, no appeal against fixing or rateable value or the capital value, as the case may be, or tax fixed or charged under this Act shall lie to the Chief Judge of the Small Causes Court, when the subject matter of such rateable value, or the capital value or tax fixed or charged under this Act is under consideration of the Municipal Property Tax Board and where any such appeal is already preferred or reference under section 218C is already made, the same shall, upon proceedings being Initiated by the Board, stand transferred to, and be dealt with by, the Municipal Property Tax Board."Amendment To The Bombay Provincial Municipal Corporations Act, 1949

2. Insertion of section 413A in Bombay LIX of 1.949. - After Section 413 of the Bombay Provincial Municipal Corporation Act, 1949, the following section shall be inserted, namely :-

"413A. Assessment subject to valuation or revision by Municipal Property Tax Board.(1)Notwithstanding anything contained in section 406, 407, 408, 409, 410, 411, 412 and 413, every rateable or the capital value, as the case may be, shall be subject to the valuation or revision by the Maharashtra Municipal Property Tax Board established under section 3 of the Maharashtra Municipal Property Tax Board Act, 2011 (hereinafter referred to as "the Municipal Property Tax Board").(2)Notwithstanding anything contained in this Act, no appeal against fixing of rateable value or the capital value, as the case may be, or tax fixed or charged under this Act shall lie to the

District Court, when the subject matter of such rateable value, or the capital value or tax fixed or charged under this Act is under consideration of the Municipal Property Tax Board and where any such appeal is already preferred or reference under section 410 is already made, the same shall, upon proceedings being initiated by the Board, stand transferred to, and be dealt with by, the Municipal Property Tax Board."Amendment To The City Of Nagpur Corporation Act, 1948

3. Insertion of section 134A in C.P. and Berar II of 1950. - After section 134 of the City of Nagpur Corporation Act, 1.948 the following section shall be inserted namely :-

"134A. Assessment subject to valuation or revision by Municipal Property Tax Board.(1)Notwithstanding anything contained in section 124, 126, 127, 128, 129, 130, 131 and 169, every annual value or the capital value, as the case may be, shall be subject to the valuation or revision by the Maharashtra Municipal Property Tax Board established under section 3 of the Maharashtra Municipal Property Tax Board Act, 2011 (hereinafter referred to as "the Municipal Property Tax Board").(2)Notwithstanding anything contained in this Act, no appeal against fixing of annual value or the capital value, as the case may be, or tax fixed or charged under this Act shall lie to the District Court, Nagpur, when the subject matter of such rateable value, or the capital value or tax fixed or charged under this Act is under consideration of the Municipal Property Tax Board and when any such appeal is already preferred, the same shall, upon proceedings being initiated by the Board, stand transferred to, and be dealt with by, the Municipal Property Tax Board."Amendment To The Maharashtra Municipal Councils, nagar Panchayats And Industrial Townships Act, 1965

4. Insertion of section 172A in Maharashtra XL of 1965. - After section 172 of the Maharashtra Municipal Council, Nagar Panchayats and Industrial Townships Act, 1965, the following section shall be inserted, namely :-

"172A. Assessment subject to valuation or revision by Municipal Property Tax Board.(1)Notwithstanding anything contained in section 113, 114, 115, 117, 119, 120, 122, 123, 124, 169, 170, 171 and 172, every rateable value or the capital value, as the case may be, shall be subject to the valuation or revision by the Maharashtra Municipal Property Tax Board established under section 3 of the Maharashtra Municipal Property Tax Board Act, 2011 (hereinafter referred to as "the Municipal Property Tax Board").(2)Notwithstanding anything contained in this Act, no appeal against fixing of rateable value or the capital value, as the case may be, or tax fixed or charged under this Act shall lie to the Property Tax Appeal Committee constituted under sub-section (2) of section 169, when the subject matter of such rateable value, or the capital value or tax fixed or charged under this Act is under consideration of the Municipal Property Tax Board and where any such appeal is already preferred or revision under section 171 is already made the same shall, upon proceedings being initiated by the Board, stand transferred to, and be dealt with by, the Municipal Property Tax Board."