

**THE GUJARAT CO-OPERATIVE SOCIETIES (AMENDMENT)
BILL, 2024.**

GUJARAT BILL NO. 7 OF 2024.

A BILL

further to amend the Gujarat Co-operative Societies Act, 1961.

It is hereby enacted in the Seventy-fifth Year of the Republic of India as follows: -

- 1.** (1) This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 2024. **Short title and commencement.**
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.
- Guj. X of 1962. 2.** In the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as “the principal Act”), in section 2, - **Amendment of section 2 of Guj. X of 1962.**
- (i) after clause (7A), the following clauses shall be inserted, namely:-
- “(7B) “co-operative housing society” means —
- (i) a society, the object of which is to provide its members with open plots for housing, dwelling houses or flats and to provide its members common amenities and services;
- (ii) a society, the object of which is to allot the plots to its members to construct the dwelling unit or flats thereon or to allot the dwelling units already constructed and where land is held either on lease hold or free hold basis by the society and houses are owned or to be owned by the members;

(iii) a society, the object of which is to allot the flats already constructed or to be constructed to its members and where both land and building or buildings are held either on freehold or lease-hold basis by the society;

(7C) “co-operative housing service society” means a society formed by the owners of flats in a building for the purpose of maintenance of the building and provision of common amenities and services;

(ii) after clause (10), the following clause shall be inserted, namely:-

(10A) “flat” means block, chamber, dwelling unit, apartment, office, showroom, shop, godown, premises, suit, tenement, unit or by any other name, means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop, showroom or godown or for carrying on any business, occupation, profession or trade, or for any other type of use ancillary to the purpose specified;”.

Amendment of section 6 of Guj. X of 1962. 3. In the principal Act, in section 6, in sub-section (1), after the words and brackets “persons (each of such persons being a member of different family)”, the words and brackets “and in case of co-operative housing society or co-operative housing service society at least eight persons (each of such persons being a member of different family)” shall be inserted.

Amendment of section 8 of Guj. X of 1962. 4. In the principal Act, in section 8, in sub-section (2), -
 (i) in clause (a), the word “and” occurring at the end shall be deleted.
 (ii) after clause (a), the following clause shall be inserted, namely: -
 “(aa) in case of co-operative housing society or co-operative housing service society, at least eight persons (each of such persons being a member of different family) who are qualified under this Act, and”

Amendment of section 67A of Guj. X of 1962. 5. In the principal Act, in section 67A, in the second proviso to sub-section (4), for the words “of the State Government”, the words “of such authority as may be specified by the State Government, by notification in the *Official Gazette*” shall be substituted.

Amendment of section 110 of Guj. X of 1962. 6. In the principal Act, in section 110, in clause (e), after the words, “arising out of such claims”, the words “as may be prescribed” shall be inserted.

Amendment of section 114 of Guj. X of 1962. 7. In the principal Act, in section 114, -
 (i) in sub-section (1), for the words “unless the period is extended by the Registrar”, the words “unless the period is extended by the Registrar or, as the case may be, the State Government” shall be substituted;

(ii) for the proviso to sub-section (1), the following proviso shall be substituted, namely: -

“Provided that, the Registrar shall not grant any extension for a period exceeding one year at a time and five years in the aggregate.”

(iii) after the existing proviso, the following provisos shall be inserted, namely: -

“Provided further that the State Government may grant extension after the expiry of ten years from the date of the order for winding up of the society:

Provided also that the State Government shall not grant any extension for a period exceeding two years at a time.”.

Insertion of new section 159A in Guj. X of 1962. 8. In the principal Act, after section 159, the following section shall be inserted, namely: -

Transfer fee for co-operative housing society and co-operative housing service society. “**159A.** A co-operative housing society or, as the case may be, a co-operative housing service society shall not collect transfer fee more than the transfer fee as may be prescribed.”.

STATEMENT OF OBJECTS AND REASONS

The State Government has enacted the Gujarat Co-operative Societies Act, 1961, relating to co-operative societies in the State of Gujarat. After the said Act came into force amendments have been made therein many a times. However, in order to see that the administration and the management of the co-operative societies is run still in a better way and the interests of the members of the society are protected, it is considered necessary to make certain amendments in the Act.

Clause 2 of the Bill provides for amendment in section 2 to define co-operative housing society, co-operative housing service society and flat.

Clause 3 of the Bill provides for amendment in section 6 enabling to register a co-operative housing or a co-operative housing service society by eight persons.

Clause 4 of the Bill provides for amendment in section 8 enabling to application for registration of a co-operative housing or a co-operative housing service society by eight persons.

Clause 5 of the Bill provides for amendment in section 67A, which provides for such authority as may be notified by the State Government for approval for use of Bad Debt fund of the society.

Clause 6 of the Bill provides for amendment to clause (e) of section 110.

Clause 7 of the Bill provides for amendment to section 114, which provides for extension of time limit to complete winding up proceedings of a society.

Clause 8 of the Bill provides for insertion of new section 159A for the transfer fees for co-operative housing/ co-operative housing service societies.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

JAGDISH VISHWAKARMA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of Legislative powers in the following respects:-

Clause 1. - Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 5. - The second proviso to sub-section (4) of section 67A proposed to be amended by this clause empowers the State Government to specify, by notification in the *Official Gazette*, the authority of which the previous sanctioned shall be required to write off the bad debt or loss.

Clause 6. - This clause empowers the State Government to prescribe by rules, the priority of payment of dues in case of liquidation of a society.

Clause 8. – New section 159A proposed to be inserted by this clause empowers the State Government to prescribe by rules, the transfer fees for co-operative housing societies or co-operative housing service societies.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 26th February, 2024.

JAGDISH VISHWAKARMA.

*ANNEXURE***EXTRACT FROM THE GUJARAT CO-OPERATIVE SOCIETIES ACT, 1961.****(Guj. X of 1962)****Conditions of
Registration.**

- 6.** (1) No society other than a federal society shall be registered under this Act unless it consists of at least ten persons (each of such persons being a member of different family), who are qualified to be members under this Act and who reside in the area of operation of the society.

(1A) to (5) XXX XXX XXX

Explanation — For the purposes of this section the expression “member of a family” means a wife, husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, step-son, step-daughter, grand-son, grand-daughter, brother, sister, half-brother, half-sister and wife of brother or half-brother.

**Application for
Registration.**

- 8.** (1) XXX XXX XXX
- (2) The application shall be signed—
- (a) in the case of a society other than a federal society, by at least ten persons (each of such persons being a member of a different family) who are qualified under this Act, and
- (b) XXX XXX XXX
- (3) XXX XXX XXX

Reserve Fund.

- 67.** (1) Every society which does, or can, derive a profit from its transactions, shall maintain a reserve fund.
- (2) At least one-fourth of the net profits of the society each year, shall be carried to the reserve fund; and such reserve fund may be used in the business of the society or may subject to the provisions of section 71, be invested, as the State Government may by general or special order direct, or may, with the previous sanction of the State Government, be used in part for some public purpose likely to promote the objects of this Act, or for some such purpose of the State, or of local Interest :
- Provided that if the Registrar is satisfied that financial condition of the society is such that it is unable to carry to its reserve fund an amount up to the aforesaid limit of one-fourth of its net profits, he may by order in writing, for such period as he may specify in the order, fix for the society a limit lower than the aforesaid limit but not lower than one-tenth of its net profits.
- (3) Where the reserve fund of a society exceeds its authorized share capital, then, notwithstanding anything contained in sub-section (1), the society may, with the previous permission of the Registrar carry to its reserve fund each year an amount which may be less than one-fourth but not less than one-tenth of its net profits.

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| 67A. (1) to (3) | XXX | XXX | XXX | Bad Debt
Reserve Fund. |
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- (4) Notwithstanding anything contained in section 67-
- (a) the balance of bad debts, if any, remaining after first writing them off under sub-section (3); and
 - (b) all losses incurred by a society including those suffered on account of settlement of disputes under section 98 which are certified as such by a certified auditor, may be written off against the reserve fund maintained under section 67 to the extent of not more than thirty per cent. of the balance in that fund:
- Provided that no bad debt or loss shall be written off against the bad debt fund or, as the case may be, the reserve fund, unless the society in the general meeting passes a resolution approving the same by a majority of not less than two-third of the members of the society present and voting:
- Provided further that no such bad debt or loss shall be written off except obtaining the previous sanction of the State Government.
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| (5) | XXX | XXX | XXX | |
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- 98.** (1) If the Registrar is satisfied that any matter, referred to him is a dispute, within the meaning of section 96 the Registrar shall, subject to the rules, decide the dispute himself, or refer it for disposal to a nominee, or a board of nominees, appointed by the Registrar :
- Provided that no person who is connected with a dispute or with the society at any stage or has previously inspected the society or audited its accounts shall be appointed as a nominee or as member of the board of nominees to settle the dispute.
- (2) Where any dispute is referred under sub-section (1) for decision to the Registrar's nominee or board of nominees, the Registrar may at any time, for reasons to be recorded in writing withdraw such dispute from his nominee, or board of nominees, and may decide the dispute himself, or refer it again for decision to any other nominee, or board of nominees, appointed by him.
 - (3) Notwithstanding anything contained in section 96, the Registrar may, if he thinks fit, suspend proceedings in regard to any dispute, if the question at issue between a society and a claimant or between different claimants, is one involving complicated question of law or fact, until the question has been tried by a regular suit instituted by one of the parties or by the society. If any such suit is not instituted within two months from the Registrar's order suspending proceedings, the Registrar shall take action as is provided in subsection (1).
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| | | | | Settlement of
Disputes. |
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Appointment of Liquidator.

- 108.** (1) When an interim or final order is made under section 107 for the winding up of a society, the Registrar may, in accordance with the rules appoint a person to be the liquidator of the society, and fix his remunerations.
- (2) where an interim order is made the officers of the society shall hand over to the liquidator has custody and control of all the property, effects and actionable claims to which the society is or appears to be entitled, and of all books, records and other documents pertaining to the business of the society and, shall have no access to any of them.
- (3) When a final order is made confirming the interim order, the officers of the society—
- (a) shall hand over to the liquidator the custody and control of any property, effects and actionable claims and any books, records, and other documents pertaining to the business of the society, which for any reason are not handed over to the liquidator under sub-section (2) at the time when an interim order was made,
- (b) shall vacate their officer and while winding up order remains in force, the general body of the society shall not exercise any powers.
- (4) The liquidator shall, subject to the general control of the Registrar exercise all or any of the powers mentioned 110, The Registrar may remove him from his office and appoint another in his place, without assigning any reason.
- (5) The whole of the assets of the society shall on the appointment of the liquidator vest in him and notwithstanding anything contained in any law for the time being in force, if any immovable property is held by him on behalf of the society, the title over the land shall be complete as soon as the mutation of the name of his office is effected, and Court shall question the title on the ground of dispossession, want of possession or physical delivery of possession.
- (6) In the event of the interim order being vacated, the liquidator shall hand over the property, effects, actionable claims, books, records and other documents of the society to the officers who had delivered the same to him. The acts done, and the proceedings taken by the liquidator, shall be binding on the society, and such proceedings shall, after the interim order has been vacated under section 107 be contained by the officers of the society.

Power of Liquidator.

- 110.** The Liquidator appointed under section 108 shall have power, subject to the rules and the general supervision, control and direction of the Registrar,-

(a) to (d)

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GUJARAT LEGISLATURE SECRETARIAT

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*further to amend the Gujarat Co-operative
Societies Act, 1961.*

**[SHRI JAGDISH VISHWAKARMA,
MINISTER OF STATE FOR
CO-OPERATION]**

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**D. M. PATEL,
Secretary,
Gujarat Legislative Assembly.**
