



**The Gujarat Prohibition of Transfer of Immovable Property and Provision for
Protection of Tenants from Eviction from Premises in Disturbed Areas Act,
1986**

Act 30 of 1986

Keyword(s):
Disturbed Area, Fair Value

Amendments appended: 12 of 1991, 17 of 2020, 14 of 2021

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as a Separate Compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to
by the President on the 24th October, 1986 is hereby published for general
information.

J. P. VASAVADA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO 30 OF 1986

(First published, after having received the assent of the President in
the "Gujarat Government Gazette" on the 29th October, 1986).

AN ACT

to declared certain transfers of immovable property in disturbe areas of the
State to be void and to prohibit temporarily transfers of immovable property
in such areas and to further amend the Bombay Rents, Hotel and Lodging
House Rates Control Act, 1947 for providing protection to tenants of certain
immovable properties in such areas from eviction.

It is hereby enacted in the Thirty-Seventh Year of the Republic of India, as
follows :—

1. This Act may be called the Gujarat Prohibition of Transfer of
Immovable Property and Provision for Protection of Tenants from Eviction
from Premises in Disturbed Areas Act, 1986. Short title.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "disturbed area" means an area declared as disturbed area under section 3;

(b) "fair value" in relation to immovable property in disturbed areas means such value of the property as approximate the market value of such property;

(c) "prescribed" means prescribed by rules made under section 11.

Declaration of disturbed area.

3. Where the State Government, having regard to the intensity and duration of riot or violence of mob and such other factors in an area is of opinion that public order in that area was disturbed for a substantial period by reason of riot or violence of mob during the period commencing on the 18th March, 1985 and ending on the day immediately before the commencement of this Act, it may, by notification in the *Official Gazette*, declare such area to be a disturbed area.

Explanation.—In this section the word "riot" shall have the same meaning as in section 146 of the Indian Penal Code, 1860.

XLV
of
1879.

Certain transfers of immovable property to be void.

4. (1) Notwithstanding anything contained in any other law for the time being in force but subject to sub-sections (2) and (3), all transfers of immovable property situate in a disturbed area made during the period commencing on the 18th March, 1985 and ending on the day immediately before the commencement of this Act, shall be null and void, with effect from the date of such transfer.

(2) (a) Any transferor or transferee in relation to a transfer of immovable property affected by the provisions of sub-section (1) may, within the prescribed period and in the prescribed form, make an application to the Collector for a declaration that the transfer of immovable property was made by free consent of the transferor and the transferee and for a fair value of the immovable property so transferred.

(b) On receipt of such application, the Collector shall hold a formal inquiry in the manner prescribed by the Bombay Land Revenue Code, 1879, and after giving an opportunity to the transferor and the transferee to be heard and after considering any evidence produced, decide whether the transfer of immovable property was made by free consent of the transferor and the transferee and for a fair value of the immovable property and accordingly—

Bom.
V. of
1879.

(i) reject the application or

(ii) by an order in writing make a declaration that the transfer of the immovable property was made by free consent of the transferor and the transferee and for a fair value of the immovable property so transferred.

(3) Upon a declaration made under sub-clause (ii) of clause (b) of sub-section (2) in respect of any transfer of immovable property, such transfer of immovable property shall, with effect from the date of such transfer, be deemed to be valid for the purposes of this Act.

1882.

Explanation.—For the purposes of this section and section 5 the word "transfer" in relation to an immovable property means a transfer by way of sale, gift, exchange, lease or otherwise and includes allowing the possession of such property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882.

5. (1) Notwithstanding anything contained in any other law for the time being in force but subject to provisions of sub-section (3), no immovable property situate in a disturbed area shall, during the period commencing on the commencement of this Act and ending on the 31st March, 1987, be transferred except with the previous sanction of the Collector.

Prohibition of transfer of immovable property in disturbed areas.

(2) Any transfer of immovable property made in contravention of sub-section (1) shall be null and void.

(3) (a) Any person intending to transfer immovable property situate in a disturbed area may, within the prescribed period and in the prescribed form, make an application to the Collector for obtaining previous sanction under sub-section (1).

Bom.
V of
1879.

(b) On receipt of such application the Collector shall hold a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, and after giving an opportunity to the applicant to be heard and after considering any evidence produced, decide whether the transfer of immovable property is proposed to be made by free consent of the persons intending to be the transferor and the transferee and for a fair value of the immovable property proposed to be transferred and accordingly—

(i) reject the application or

(ii) by an order in writing give previous sanction to the proposed transfer of immovable property.

6. Any person aggrieved by the decision of the Collector rejecting an application under sub-clause (i) of clause (b) of sub-section (2) of section 4 or under sub-clause (i) of clause (b) of sub-section (3) of section 5 may file an appeal before the State Government in such manner, within such time, and on payment of such fees as may be prescribed.

Appeals.

XLV
of
1980.

7. All inquiries and proceedings before the Collector and the State Government under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

proceeding to be judicial proceedings

8. The decision of the Collector under section 4 or 5, subject to an appeal to the State Government and the decision of the State Government on the appeal shall be final and conclusive and shall not be questioned in any Court.

Finality of the decision of the Collector and the State Government.

Sections 4 and 5 not to apply to certain transfers of immovable property.

9. The provisions of sections 4 and 5 shall not apply to any transfer by way of mortgage of any immovable property situate in a disturbed area in favour of a financial institution for the purpose of obtaining financial assistance from such institution.

Explanation.—For the purposes of this section “financial institution” means—

(a) a corporation as defined in clause (b) of section 2 of the Gujarat Public Moneys (Recovery of Dues) Act, 1979;

Oct.
17 of
1979.

(b) a Bank as defined in clause (c) of that section.

Protection of action taken under this Act.

10. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or purports to be done under this Act.

Power to make rules.

11. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may be made to provide for all or any of the following matters, namely:—

(a) the period within which and the form in which an application may be made under clause (a) of sub-section (2) of section 4;

(b) the period within which and the form in which an application may be made under clause (a) of sub-section (3) of section 5;

(c) the manner in which, the time within which and fees on payment of which an appeal may be filed under section 6;

(d) any other matter which is to be or may be prescribed by rules, made under this Act.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature, or to such modification as the State Legislature may make, during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

Insertion of new section 11A in Bom. LVII of 1947.

12. In the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, (hereinafter referred to as “the principal Act”), after section 11, the following section shall be inserted, namely:—

"11A. Where by reason of any riot or violence of a mob any material part of the premises in a disturbed area is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let,—

Right of tenant in new building in disturbed areas.

(a) the landlord shall erect the new building at the original site, subject to the provisions of any rules, bye-laws or regulations, made by a local authority, not later than fifteen months from the commencement of this Act: and

(b) the tenant shall have the right to occupy a tenement in the new building erected at the original site by the landlord, and

the provisions of sections 17B and 17C shall, so far as may be apply.

Explanation.—In this section and in sub-section (1A) of section 12, the expression "disturbed area" shall have the same meaning as assigned to it in the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1986."

Guj. 30 of 1986.

13. In the principal Act, in section 12, after sub-section (I), the following sub-section shall be inserted, namely:—

Amendment of section 12 of Bom. LVII of 1947.

"(1A) Where by reason of riot or violence of a mob any material part of the premises in a disturbed area is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let, the landlord shall not be entitled to,—

(a) the standard rent and permitted increases due for the premises,

(b) recover possession of such premises merely on the ground of non-payment of standard rent and permitted increases due,

during the period in which such premises remain so destroyed or unfit."

44. In the principal Act, after section 17C, the following new section shall be inserted, namely:—

Insertion of new section 17D in Bom. LVII of 1947.

"17D. (1) Where a landlord fails to erect a new building within the period specified in clause (a) of section 11A, the original site, irrespective of whether the premises thereon referred to in section 11A exist or not, shall vest in the State Government free from all encumbrances for the purpose of erection of new building to provide accommodation to tenants, and there shall be paid to the landlord such compensation for such site as may, subject to such rules as may be made in this behalf, under section 49, by an order be determined by the Collector.

Vesting of original site in State Government.

(2) An appeal shall lie to the State Government from an order made by the Collector under sub-section (1) determining the amount of compensation to be paid to the landlord, within 30 days from the date of communication of the order and the State Government may pass such order as it deems fit".

Amendment
of section
49 of Bom.
LVII of
1947.

15. In the principal Act, in section 49, in sub-section (2) ,—

(1) after clause (ai), the following clause shall be inserted, namely:—

“(aa) the rules subject to which compensation may be determined by the Collector under sub-section (1) of section 17D;”;

(2) for clause (v), the following clause shall be substituted, namely :—

“(v) levy of court fees in suits, appeals, proceedings and applications instituted before the State Government, Court, Controller or Collector.”



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Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the
President on the 29th March, 1991 is hereby published for general information.

R. M. MEHTA,

Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 12 OF 1991.

(First published, after having received the assent of the president in the
"Gujarat Government Gazette" on the 4th April, 1991).

AN ACT

to declare certain transfers of immovable property in disturbed areas of the
State to be void and to prohibit temporarily transfers of immovable
property in such areas and to further amend the Bombay Rents,
Hotel and Lodging House Rates Control Act, 1947 for provid-
ing protection to tenants of certain immovable properties in
such areas from eviction.

It is hereby enacted in the Forty-second Year of the Republic of India as
follows:—

1. This Act may be called the Gujarat Prohibition of Transfer of Short title.
Immovable Property and Provision for Protection of Tenants from Eviction
from Premises in Disturbed Areas Act, 1991.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “disturbed area” means an area declared as disturbed area under section 3;

(b) “fair value” in relation to immovable property in disturbed areas means such value of the property as approximate the market value of such property;

(c) “prescribed” means prescribed by rules made under section 12.

Declaration of disturbed area.

3. (1) Where the State Government, having regard to the intensity and duration of riot or violence of mob and such other factors in any area of the State is of opinion that public order in that area was disturbed for a substantial period by reason of riot or violence of mob, it may, by notification in the *Official Gazette*,—

(a) declare such area to be a disturbed area;

(b) specify the substantial period (hereinafter referred to as “the specified period”).

Explanation.—In this section the word “riot” shall have the same meaning as in section 146 of the Indian Penal Code.

XLV of
1860.

(2) Where the State Government is of opinion that public order in the area declared as disturbed area under sub-section (1) has ceased to be disturbed, it may by notification in the *Official Gazette* rescind the notification issued under sub-section (1) in relation to such area and on such rescission the provisions of this Act shall cease to apply to such area except as respects things done or omitted to be done under this Act and except as respects the application of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 to such area, as amended by this Act.

Bom. LVII
of 1947.

Certain transfers of immovable property to be void.

4. (1) Notwithstanding anything contained in any other law for the time being in force but subject to sub-sections (2) and (3) all transfers of immovable property situated in a disturbed area made during the specified period shall be null and void, with effect from the date of such transfer.

(2) (a) Any transferor or transferee in relation to a transfer of immovable property affected by the provisions of sub-section (1) may, within the prescribed period and in the prescribed form, make an application to the Collector for a declaration that the transfer of immovable property was made by free consent of the transferor and the transferee and for a fair value of the immovable property so transferred.

(b) On receipt of such application, the Collector shall hold a formal inquiry in the manner prescribed by the Bombay Land Revenue Code, 1879 and after giving an opportunity to the transferor and the transferee to be heard and after considering any evidence produced, decide whether the transfer of immovable property was made by free consent of the transferor and the transferee and for a fair value of the immovable property and accordingly —

Bom. V of
1879.

(i) reject the application; or

(ii) by an order in writing make a declaration that the transfer of the immovable property was made by free consent of the transferor and the transferee and for a fair value of the immovable property so transferred.

(3) Upon a declaration made under sub-clause (ii) of clause (b) of sub-section (2) in respect of any transfer of immovable property, such transfer of immovable property shall, with effect from the date of such transfer, be deemed to be valid for the purposes of this Act.

Explanation.—For the purposes of this section and section 5, the word “transfer” in relation to an immovable property means a transfer by way of sale, gift, exchange, lease or otherwise and includes allowing the possession of such property to be taken or retained in part performance of contract of the nature referred to in section 53A of the Transfer of Property Act, 1882.

4 of 1982

5. (1) Notwithstanding anything contained in any other law for the time being in force but subject to provisions of sub-section (3), no immovable property situated in a disturbed area shall, during the period of subsistence of the notification issued under sub-section (1) of section 3 declaring such area to be the disturbed area, be transferred except with the previous sanction of the Collector.

Prohibition
of transfer
of immovable
property in
disturbed
area.

(2) Any transfer of immovable property made in contravention of sub-section (1) shall be null and void.

(3) (a) Any person intending to transfer immovable property situated in a disturbed area may, within the prescribed period and in the prescribed form, make an application to the Collector for obtaining previous sanction under sub-section (1).

(b) On receipt of such application the Collector shall hold a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, and after giving an opportunity to the applicant to be heard and after considering any evidence produced, decide whether the transfer of immovable property is proposed to be made by free consent of the persons intending to be the transferor and the transferee and for a fair value of the immovable property proposed to be transferred and accordingly —

Bom V of
1879.

(i) reject the application; or

(ii) by an order in writing give previous sanction to the proposed transfer of immovable property.

6. Any person aggrieved by the decision of the Collector rejecting an application under sub-clause (i) of clause (b) of sub-section (2) of section 4 or under sub-clause (i) of clause (b) of sub-section (3) of section 5 may file an appeal before the State Government in such manner, within such time, and on payment of such fees, as may be prescribed.

Appeals.

Proceedings
to be judicial
proceedings.

7. All inquiries and proceedings before the Collector and the State Government under this Act, shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

Finality of
decision of
Collector and
State Govern-
ment.

8. The decision of the Collector under section 4 or 5, subject to an appeal to the State Government under section 6 and the decision of the State Government on the appeal, shall be final and conclusive and shall not be questioned in any Court.

XLV of
1860

Sections 4
and 5 not
to apply to
certain
transfers of
immovable
property.

9. The provisions of sections 4 and 5 shall not apply to any transfer by way of mortgage of any immovable property situated in a disturbed area in favour of a financial institution for the purpose of obtaining financial assistance from such institution.

Explanation.—For the purposes of this section “financial institution” means—

(a) a Corporation as defined in clause (b) of section 2 of the Gujarat Public Moneys (Recovery of Dues) Act, 1979.

Guj. 17 of
1979.

(b) a Bank as defined in clause (c) of that section.

Protection
of action
taken under
this Act.

10. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or purported to be done under this Act.

Delegation
of powers.

11. The State Government may, by notification in the *Official Gazette*, delegate any of the powers of the Collector under section 4 or 5 to any officer of the Government not below the rank of a Deputy Collector.

Power to
make rules.

12. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may be made to provide for all or any of the following matters, namely:—

(a) the period within which and the form in which, an application may be made under clause (a) of the sub-section (2) of section 4 ;

(b) the period within which, and the form in which, an application may be made under clause (a) of sub-section (3) of section 5 ;

(c) the manner in which, the time within which and fees on payment of which, an appeal may be filed under section 6 ;

(d) any other matter which is to be, or may be, prescribed by rules, made under this Act.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made

and shall be subject to rescission by the State Legislature, or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall there upon take effect.

Bom. LVII
of 1947.

13. In the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, (hereinafter referred to as "the principal Act"), after section 11, the following new section shall be inserted, namely :--

Insertion of
new section
11A in
Bom. LVII of
1947.

"11A. Where by reason of any riot or violence of mob any material part of the premises in a disturbed area is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let,-

Right of
tenants
in new
building in
disturbed
areas.

(a) the landlord shall erect the new building at the original site subject to the provisions of any rules, bye-laws or regulations made by a local authority not later than fifteen months from the date of the publication of the notification in the *Official Gazette*, issued under sub-section (1) of section 3 of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1991 or the date on which the material part of premises of the building is wholly destroyed or rendered substantially and permanently unfit, whichever is later :

Guj. 12
of 1991.

Provided that the State Government may for sufficient reasons extend the period of fifteen months to such further period not exceeding nine months as it thinks fit,

(b) the tenant shall have the right to occupy a tenement in the new building erected at the original site by the landlord, and

the provisions of sections 17B and 17C shall, so far as may be, apply.

Guj 12
of 1991.

Explanation.--In this section and in sub-section (1A) of section 12, the expression "disturbed area" shall have the same meaning as assigned to it in the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1991."

14. In the principal Act, in section 12, after sub-section (1), the following sub-section shall be inserted, namely :--

Amendment
of section
12 of Bom.
LVII of 1947.

"(1A) Where by reason of any riot or violence of mob any material part of the premises in a disturbed area is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let, the landlord shall not be entitled to --

(a) the standard rent and permitted increases due for the premises,

(b) recover possession of such premises merely on the ground of non-payment of standard rent and permitted increases due,

during the period in which such premises remain so destroyed or unfit."

Insertion of
new section
17D in Bom.
LVII of 1947.

15. In the principal Act, after section 17C, the following new section shall be inserted, namely :—

Vesting of
original site
in State Govern-
ment,

“17D. (1) Where a landlord fails to erect a new building within the period specified in clause (a) of section 11A, the original site, irrespective of whether the premises thereon referred to in section 11A exist or not, shall vest in the State Government free from all encumbrances for the purpose of erection of new building to provide accommodation to tenants and there shall be paid to the landlord such compensation for such site as may, subject to such rules as may be made in this behalf under section 49, by an order, be determined by the Collector.

(2) An appeal shall lie to the State Government from an order made by the Collector under sub-section (1) determining the amount of compensation to be paid to the landlord, within thirty days from the date of communication of the order and the State Government may pass such order as it deems fit.”

Amendment
of section
49 of Bom.
LVII of
1947.

16. In the principal Act, in section 49, in sub-section (2),—

(1) after clause (ai), the following clause shall be inserted, namely:—

“(aai) the rules subject to which compensation may be determined by the Collector under sub-section (1) of section 17D;”.

(2) for clause (v), the following clause shall be substituted, namely:—

“(v) levy of court-fees in suits, appeals, proceedings and applications instituted or made before the State Government, Court, Controller or Collector.”.

Repeal.

17. The Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1986 is hereby repealed.

Guj. 30
of 1986.



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PART - IV

**Acts of Gujarat Legislature and Ordinances promulgated and Regulations
made by the Governor**

The following Act of the Gujarat Legislature, having been assented to by the President on the 6th October, 2020 is hereby published for general information.

K. M. LALA,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 17 OF 2020.

(First published, after having received the assent of the President, in the "Gujarat Government Gazette", on the 15th October, 2020).

AN ACT

further to amend the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991.

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

Short title and commencement.

1. (1) This Act may be called the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas (Amendment) Act, 2019.

(2) It shall come into force at once.

Amendment in section 2 of Guj. 12 of 1991.

2. In the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991 (hereinafter referred to as “the principal Act”), in section 2, -

Guj. 12 of 1991.

(i) in clause (a), after the words and figure “under section 3”, the words “and includes an area of five hundred meters adjacent to the boundary of the disturbed area” shall be added;

(ii) after clause (c), the following new clauses shall be added, namely:-

“(d) “proper clustering of persons of one community” with all grammatical variations and cognate expressions shall mean, in relation to a geographical area, a small or large social unit or a group of living things who have something in common, such as norms, religion, values, or identity and often share a sense of place that is situated in a given geographical area;

(e) “transfer” for the purposes of this Act in relation to an immovable property means a transfer of right, title or interest in or over such property or the possession thereof by way of sale, gift, exchange, lease or otherwise and includes allowing possession of such property to be taken or retained-

(i) under an agreement to sale; or

(ii) under the power of attorney; or

(iii) in part performance of contract of the nature referred to the nature referred to in section 53A of the Transfer of Property Act, 1882; or

4 of 1882.

(iv) under any other document, whether registered or not or whether notarized or not, evidencing transfer of possession of such property.

(f) “re-development of immovable property” means and includes the action or process of developing something again or differently with or without demolishing the existing immovable property;

(g) “rehabilitation scheme” means a scheme made and specified as such for the purposes of this Act by notification in the *Official Gazette*, by State Government for relocating the persons displaced from the lands due to Government projects like rail, road, buildings, bridges, dams, and the like.

V of 1879. (h) “Collector” means the Collector appointed by the State Government under section 8 of the Gujarat Land Revenue Code, 1879.”.

3. In the principal Act, for the section 3, the following section shall be substituted, namely:-

Substitution of section 3 of Guj. 12 of 1991.

Declaration of disturbed area.

“3. (1) Where the State Government is of the opinion that, –

(i) having regard to the intensity and duration of riot or violence of mob and such other factors in any area of the State, the public order in that area was disturbed for a substantial period by reason of riot or violence of mob; or

(ii) polarization of persons belonging to one community has taken place or is likely to take place disturbing the demographic equilibrium of the persons of different communities residing in that area or that improper clustering of persons of one community has taken place or is likely to take place where the mutual and peaceful coherence amongst different communities may go haywire in that area; or

(iii) for the reasons stated in this sub-section, that area of the State has become prone to disturbance of public order,

it may, by notification in the *Official Gazette*,

(a) declare such area to be a disturbed area;

(b) specify the substantial period (hereinafter referred to as "the specified period").

Explanation. - In this section the word "riot" shall have the same meaning as in section 146 of the Indian Penal Code.

XLV of 1860.

(2) Where the State Government is of opinion that public order in the area declared as disturbed area under sub-section (1) has ceased to be disturbed, it may by notification in the *Official Gazette*, rescind the notification issued under sub-section (1) in relation to such area and on such rescission the provisions of this Act shall cease to apply to such area except as respects things done or omitted to be done under this Act and except as respects the application of the Gujarat Rents, Hotel and Lodging House Rates Control Act, 1947 to such area, as amended by this Act.”.

Bom. LVII of 1947.

Substitution of section 4 of Guj. 12 of 1991.

4. In the principal Act, for section 4, the following section shall be substituted, namely:-

Certain transfers of immovable property to be void.

“4. Notwithstanding anything contained in any law for the time being in force but subject to sub-section (1) of section 5, all transfers of immovable property situated in a disturbed area made during the specified period shall be null and void, with effect from the date of such transfer.”.

Amendment of section 5 of Guj. 12 of 1991.

5. In the principal Act, in section 5, in sub-section (3), for clauses (b) and (c), the following clauses shall be substituted, namely:-

“(b) On receipt of such application, the Collector shall hold a formal inquiry in the manner provided by the Gujarat Land Revenue Code, 1879, and after giving an opportunity to the applicant to be heard and after considering any evidence produced, decide whether –

Bom. V of 1879.

(i) the immovable property is sought to be transferred in terms of clause (e) of section 2;

- (ii) there is free consent of persons intending to be the transferor and the transferee;
- (iii) the transfer is for a fair value of immovable property proposed to be transferred;
- (iv) there is likelihood of polarization of the persons belonging to the community causing disturbance in demographical equilibrium of the persons belonging to different communities residing in the area in which the immovable property is proposed to be transferred;
- (v) there is likelihood of improper clustering of persons belonging to one community in the area in which the immovable property is proposed to be transferred and accordingly,-

(a) reject the application; or

(b) by an order in writing, give previous sanction to the proposed transfer of immovable property.

(c) The Collector shall decide the application made under sub-section (2) preferably within a period of three months from the date of receipt of application:

Provided that the Collector may extend the said period by recording reasons which necessitated extension of the said period.”.

6. In the principal Act, for section 5A, the following section shall be substituted, namely:-

**Substitution of
section 5A of
Guj. 12 of 1991.**

**Obligations of
transferor and
transferee who
have received
advantage under
null and void
orders.**

“5A. (1)(a) Where a transfer of immovable property is null and void under section 4, the transferor who has received any consideration for such transfer shall return the consideration to the transferee-

- (i) where such transfer is made before the date of commencement of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises

in the Disturbed Areas (Amendment) Act, 2019, within six months from the date of such commencement, or **Guj. of 2019.**

(ii) where such transfer is made after the date of such commencement, within six months from the date of such transfer.

(b) the transferee or any other person on whose behalf of such transferee (hereinafter in this section referred to as the 'agent' has possession of such immovable property shall restore the property to the transferor within the said period of six months.

(c) the transferee shall not make any improvement in the property and the Collector may, by an order, restrain the transferee to make any improvement in the property.

(2) (a) Where a transferor fails to return the consideration to the transferee within the said period of six months, or

(b) where a transferee or his agent fails to restore possession of the immovable property to the transferor within the said period of six months, the transferee in case of clause (a) of sub-section (1) and the transferor in case of clause (b) of sub-section (1) may make an application in such form and within such period as may be prescribed, to the Collector for making an order directing the transferor to return the consideration to the transferee or, as the case may be, directing the transferee to restore possession of the immovable property to the transferor.

(3) The Collector may at any time *suo motu* or on application made to him under sub-section (2), shall, after making a formal inquiry in the manner prescribed by the Gujarat Land Revenue Code, 1879 and after giving the transferor and the transferee or, as the case may be, his agent an opportunity of being heard and after considering any evidence which may be produced, make an order in writing directing the transferor to return such consideration to the transferee within such time as may be specified in the order or, as the case

Bom. V of 1879.

may be, an order in writing directing the transferee or his agent to restore the possession of the immovable property to the transferor within such time as may be specified in the order or make such other order as he deems fit.

- (4) (a) Where the transferor fails to return the consideration to the transferee within the time specified in the order made under sub-section (3), the Collector may recover the consideration from the transferor as an arrear of land revenue and pay the same to the transferee after deducting the expenses for such recovery.
- (b) Where the transferee or his agent fails to restore possession of the immovable property within the time specified in the order made under sub-section (3), the Collector may, notwithstanding anything to the contrary contained in any law for the time being in force, evict the transferee or his agent from the immovable property and take possession of such property and may, for such purpose use or cause to be used such force as may be necessary, and restore the possession of such property to the transferor.
- (5) Where a transferor fails to take possession of such property, the property shall temporarily be in the custody of the Collector and the Collector may take such measures as he considers necessary or expedient for securing and managing such property subject to the provision of the rules made in this behalf until the said property is disposed of by the Collector in the manner as may be prescribed.”.

7. In the principal Act, for section 6, the following section shall be substituted, namely:-

**Substitution of
section 6 of Guj.
12 of 1991.**

Appeal. “6. (1) Any person aggrieved by the decision of the Collector rejecting an application under sub-section (2) of section 5 may file an appeal before the State Government in such manner, within such time, and on payment of such fees, as may be prescribed:

Provided that if the Appellate Officer is satisfied that such person was prevented from preferring an appeal within the prescribed time limit for sufficient cause, he may entertain the appeal even after such prescribed time limit.

(2) The State Government shall, after affording an opportunity of being heard to such person, may confirm, revise or dismiss the order against which appeal is preferred.”.

Insertion of new
sections 6A to 6E
in Guj. 12 of
1991.

8. In the principal Act, after section 6, the following sections shall be inserted, namely:-

Sections 4 and 5
not to apply to
certain transfer
of immovable
property in
rehabilitation
schemes.

“6A. (1) Nothing in section 4 and 5 shall apply to the transfers of immovable properties by the persons residing in such rehabilitation schemes of the State Government in the disturbed area, as may be specified by the State Government by notification in the *Official Gazette*.

(2) Nothing in section 5 shall apply where the State Government relocates the persons in any of its rehabilitation schemes falling in the disturbed area.

Redevelopment
of immovable
property.

6B. Any person who desires to redevelop the immovable property standing in his name in the revenue records for further transfer whole or part thereof after redevelopment, shall apply under sub-section (1) of section 5 for getting previous sanction of the Collector and thereupon, the remaining provisions of section 5 shall apply to such application *mutatis mutandis*;

Provided that previous sanction of the Collector shall not be required in case a person intends to redevelop his immovable property for his personal use.

Revision.

6C. The State Government may, on its own motion or on application, call for and examine the records of any order passed or proceeding taken under the provisions of this Act and against which no appeal has been preferred under section 7 for the purpose of

satisfying itself as to the legality or propriety of such order or as to the regularity of such procedure and pass such order with respect thereto as it may think fit:

Provided that no such order shall be made except after giving the person affected a reasonable opportunity of being heard in the matter.

**Penalty for
contravention of
provisions of the
Act.**

6D. Whoever contravenes the provisions of section 4, or 5 shall on conviction be punished with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine which shall not be less than rupees one lakh or ten per cent. of the value of property derived based on the *jantry* of the property, whichever is higher, shall be levied.

**Cognizable
offence.**

6E. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence punishable under section 6D shall be cognizable.”. **2 of 1974.**

**Insertion of new
sections 16A to
16C in Guj. 12 of
1991.**

9. In the Principal Act, after section 16, the following sections shall be inserted, namely:-

**Constitution of
Monitoring and
Advisory
Committee.**

“16A. (1) The State Government shall, as soon as may be after the commencement of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas (Amendment) Act, 2019, constitute a Committee called the Monitoring and Advisory Committee.

**Guj.17 of
2019.**

(2) The Monitoring and Advisory Committee shall consist of a Chairperson and such number of other official members as the State Government may deem fit.

(3) The Monitoring and Advisory Committee shall conduct or cause to be conducted studies in the disturbed areas to ascertain from time to time whether the proper clustering of people of the community is maintained.

(4) The Monitoring and Advisory Committee shall advise -

(a) the State Government either generally as regards any rules or for any other purpose connected with this Act;

(b) the Collector in discharge of his functions under this Act.

Additional Provisions.

16B. Notwithstanding anything contained in –

(1) the Gujarat Co-operative Societies Act, 1961, the persons seeking to register a co-operative housing society or Chairman or Secretary of the society shall, when a person before transferring his right, title or interest in his holding in a cooperative society in the specified area, along with the application for registration of such society, or as the case may be, before transferring his right, title or interest in his holding in such society shall file a self-declaration that no breach of section 4 or 5 shall take place due to registration of the co-operative housing society or transfer of right, title or interest in his holding in such society.

Guj. 10 of 1962.

(2) the Gujarat Provincial Municipal Corporations Act, 1949, the person shall, at the time of applying for the permission for getting building use of immovable property situated in the specified area, file a self-declaration that occupation of houses on getting permission to use the building shall not invite any breach of the provisions of sections 4 or 5;

Bom. LIX of 1949.

(3) the Gujarat Municipalities Act, 1963, the person shall, at the time of applying for the permission for getting building use of immovable property situated in the disturbed area, file a self-declaration that occupation of houses on getting permission to use the building shall not invite any breach of the provisions of section 4 or 5;

Guj. 34 of 1964.

(4) the Indian Registration Act, 1908, the registering authority shall not accept or register any document relating to immovable property situated in the specified area which is required to be compulsorily registered unless the order granting previous sanction of the Collector under section 5 is produced along with the document sought to be registered.

XVI of 1908.

**Special
Investigation
Team.**

16C. (1) The State Government shall constitute a Special Investigation Team for Police Commissionerate area comprising of Collector, Police Commissioner and Municipal Commissioner and for rest of area a team comprising of Collector, Superintendent of Police and Regional Municipal Commissioner of the concerned district.

(2) The special investigation team shall discharge the following functions, namely:-

(i) assist the State Government in forming opinion before declaration of any area to be a disturbed area under section 3;

(ii) assist the authorized officer in examining the cases as may be referred by the authority before grant of sanction or otherwise under section 5;

(iii) assist the Monitoring and Advisory Committee in gathering necessary information in regard to sub-section (3) of section 16A.

**Amendment of
certain Acts.**

16D. Each of the Acts specified in the second column of the Schedule shall be amended in the manner and to the extent specified against it in the third column thereof.

SCHEDULE

(See section 16D)

Sr. No.	Short title	Extent of Amendment.	
1	2	3	
1.	The Indian Registration Act, 1908. (XVI of 1908)	Amendment of section 17 of XVI of 1908.	In the Registration Act, 1908 in its application to the State of Gujarat, in section 17, in sub-section (1), - (i) to clause (e), after the existing proviso, the following proviso and Explanation thereunder shall be inserted, namely:- “Provided further that the registering authority shall not accept or register any document relating to immovable property situated in the disturbed area which is required to be compulsorily registered

			<p>unless the order granting previous sanction of the Collector under section 5 of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991 is produced along with the document sought to be registered.</p> <p><i>Explanation.-</i> For the purpose of this sub-section, the expression “disturbed area” shall have the meaning as assigned to it in the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991”.</p>	<p>Guj. 12 of 1991.</p> <p>Guj. 12 of 1991.</p>
2	The Gujarat Provincial Municipal Corporations Act, 1949. (Bom. LIX of 1949)	Insertion of new section 263B in Bom. LIX of 1949.	<p>“263B. Permission for getting building use of immovable property situated in the disturbed area. The person shall, at the time of applying for the permission for getting building use of immovable property situated in the disturbed area, file a self-declaration that occupation of houses on getting permission to use the building shall not invite any breach of the provisions of section 4 or 5 of the Gujarat Prohibition of Transfer of Immovable Property and Provision for</p>	

			<p>Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991.</p> <p><i>Explanation.-</i> For the purpose of this section, the expression “disturbed area” shall have the meaning as assigned to it in the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991.”.</p>
3.	The Gujarat Municipalities Act, 1963. (Guj. 34 of 1964)	Amendment of section 157 of Guj. 34 of 1964.	<p>In the Gujarat Municipalities Act, 1964, in section 157, after sub-section (1), the following sub-section and the Explanation thereunder shall be inserted, namely:-</p> <p>“(1A) The person shall, at the time of delivering or sending notice to the Chief Officer for completion certificate for the permission for getting building use of immovable property situated in the disturbed area, file a self-declaration that occupation of houses on getting permission to use the building shall not invite any breach of the provisions of section 4 or 5 of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991.</p>

Guj. 12 of 1991.

Guj. 12 of 1991.

			<p><i>Explanation.-</i> For the purpose of this sub-section, the expression “disturbed area” shall have the meaning as assigned to it in the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991.”.</p>
4	The Gujarat Co-operative Societies Act, 1961. (Guj. X of 1962)	Amendment of section 8 of Guj. X of 1962.	<p>In the Gujarat Co-operative Societies Act, 1961, -</p> <p>(i) in section 8, after sub-section (1), the following sub-section and Explanation thereunder shall be inserted, namely:-</p> <p>“(1A) The persons seeking to register a co-operative housing society in the disturbed area shall, along with the application for registration of such society, file a self-declaration that no breach of section 4 or 5 of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991 shall take place due to registration of the co-operative housing society.</p> <p><i>Explanation.-</i> For the purpose of this sub-section, the expression “disturbed area” shall have the meaning as assigned to it in the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of</p>

Guj. 12 of 1991.

		<p>Amendment of section 26 of Guj. 12 of 1991.</p>	<p>Tenants from Eviction from premises in the Disturbed Areas Act, 1991.”;</p> <p>(ii) the existing section 26 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section and Explanation thereunder shall be inserted, namely:-</p> <p>“(2) The Chairman or, as the case may be the Secretary of the co-operative society shall, before transferring the right, title or interest in the holding in a co-operative society in the disturbed area, file a self-declaration that no breach of section 4 or 5 of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991 shall take place due to transfer of right, title or interest in the holding in such society.</p> <p><i>Explanation.-</i> For the purpose of this sub-section, the expression “disturbed area” shall have the meaning as assigned to it in the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas Act, 1991.”.</p>
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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART IV

Acts of Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 13th May, 2021 is hereby published for general information.

K. M. LALA,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 14 OF 2021

(First published, after having received the assent of the Governor, in the "*Gujarat Government Gazette*", on the 22nd May, 2021).

AN ACT

further to amend the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in Disturbed Areas Act, 1991.

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

1. (1) This Act may be called the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in the Disturbed Areas (Amendment) Act, 2021.

Short title and commencement.

(2) It shall be deemed to have come into force on the 15th October, 2020.

**Amendment
of section 16B
of Guj. 12 of
1991.**

2. In the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from premises in Disturbed Areas Act, 1991 (hereinafter referred to as “the principal Act”), in section 16B,-

**Guj. 12 of
1991.**

(1) in sub-section (1), for the words “in the specified area”, the words “in the disturbed area” shall be substituted;

(2) in sub-section (2), for the words “in the specified area”, the words “in the disturbed area” shall be substituted;

(3) in sub-section (4),-

(a) for the words and figures “the Indian Registration Act, 1908”, the words and figures “the Registration Act, 1908”, shall be substituted;

XVI of 1908.

(b) for the words “in the specified area”, the words “in the disturbed area” shall be substituted.

**Amendment
of section
16D of Guj.
12 of 1991.**

3. In the principal Act, in section 16D, in the Schedule, at Sr. No. 1, in column (2), for the words and figures “The Indian Registration Act, 1908”, the words and figures “The Registration Act, 1908”, shall be substituted.

XVI of 1908.

XVI of 1908.
