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PART V

Bills introduced in the Gujarat Legislative Assembly

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GUJARAT BILL NO. OF 28 2016

THE GUJARAT HERITAGE CONSERVATION BILL, 2016

A Bill

to provide for identification, documentation, conservation and regulation of heritage assets in the State of Gujarat and for the matters connected therewith and incidental thereto.

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

- 1.(1) This Act may be called the Gujarat Heritage Conservation Act, 2016.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commence-
ment.

**No-application
of the Act.**

2. Nothing in this Act shall apply to-
- (i) ancient and historical monuments, or archaeological sites or remains, declared by or under any law made by parliament to be of national importance;
 - (ii) any antiquities to which the Ancient Monuments and Archaeological sites and remains Act, 1958 (Central Act. No. 24 of 1958) applies;
 - (iii) any antiquities or art treasure to which the Antiquates and Art Treasure Act, 1972 (Central Act. No. 52 of 1972) applies; or
 - (iv) any ancient or historical Monuments, or archaeological sites and remains antiquities to which the Gujarat Ancient Monuments and Archaeological Sites and Remains Act, 1965 (Central Act. No. 25 of 1965) applies;

Definitions

3. In this Act, unless the context otherwise requires,-

- (a) "Authority" means the Gujarat Heritage Authority constituted under section 12;
- (b) "competent authority" means an officer of the State Government specified, by notification in the Official Gazette, as the competent authority by the State Government to perform functions under this Act:

Provided that the State Government may, by notification in the Official Gazette, specify different competent authorities for different areas and define their jurisdiction;

- (c) "conservation", in relation to a heritage asset, means the management of that asset in a manner that will enable the heritage significance of that asset to be retained and includes the preservation, protection, restoration, re-construction, adaptation and maintenance of that asset;
- (d) "construction" means any erection of a structure or a building, including any addition or extension thereto either vertically or horizontally, but does not include any reconstruction, repair and renovation of an existing structure or building;
- (e) "Council" means the Gujarat State Heritage Council constituted under section 10;
- (f) "heritage asset" means the built heritage associated with historical and cultural background and natural appurtenants and includes buildings, structures, sites, streets, landscapes, parks, gardens,

localities, precincts, towns and other natural features and sites which are associated with built heritage, and which have aesthetic, cultural, historical, scientific, social, ecological, environmental or spiritual significance;

- (g) "heritage bye-laws" means the heritage bye-laws made under section 9;
- (h) "heritage databank" means a record of all heritage assets and other related data of heritage assets;
- (i) "Heritage Fund" means the Gujarat Heritage Fund established under section 22;
- (j) "level of significance" indicates the context in which a heritage asset is important. A heritage asset can have more than one level of significance, however, for the purposes of this Act the following three levels of significance shall be taken in account, namely:-
 - (i) State level significance- such assets which are of world, national or State importance and are listed in the heritage databanks as State level heritage;
 - (ii) District level significance -such assets which are of regional or
 - ~~(iii) Local level significance- such assets which are of city level or~~
 - local level importance and are listed in the heritage databank as local level heritage;
- (k) "listing" means documenting heritage asset and assigning heritage status to these assets in terms of their level of significance;
- (l) "local authority" means a Municipality constituted under the Gujarat Municipalities Act, 1963 (Act No.34 of 1964), a Panchayati Raj Institution constituted under the Gujarat Panchayats Act, 1963 (Act No. 18 of 1993), and Municipal corporation constituted under the Gujarat Provincial Municipal corporation Act, 1949 (Act No.59 of 1994)
- (m) "prescribed" means prescribed by rules made under this Act;
- (n) "re-construction" means any erection of a structure or building to its pre-existing structure, having the same horizontal and vertical limits;
- (o) "regulated area" means the area specified in section 6;
- (p) "repair and renovation" means alterations to a pre-existing structure or building, but shall not include construction or re-construction;

- (q) "Secretary in-charge" means the Secretary to the Government in-charge of a department and includes an Additional Chief Secretary and a Principal Secretary when he is in charge of a department.

Categorisation and classification of heritage assets.

4. (1) The State Government shall, on the recommendation of the Council, prescribe categories of heritage assets and while prescribing such categories it shall have regard to the aesthetic, cultural, historical, scientific, social, ecological, environmental or spiritual, archaeological and architectural value and such other factors as may be relevant for the purpose of such categorization.

- (2) The State Government shall, on the recommendation of the Council, classify all the heritage assets in accordance with the categories prescribed under sub-section (1) and thereafter make the same available to the public and exhibit the same on its website and also in such other manner as it may deem fit.

Declaration of certain heritage assets as protected heritage assets

5. (1) The State Government may, on the recommendation of the Council, declare for the purposes of this Act any heritage asset to be a protected heritage asset.

(2) Before making any such declaration as is referred to in sub-section (1), the State Government shall, by notification in the Official Gazette, give two months' notice of its intention to do so and a copy of such notification along with a statement of the reasons for which such declaration is proposed to be made, shall be affixed in a conspicuous place at or near the heritage asset which is proposed to be declared as protected.

(3) Any person interested in any such heritage asset may, within two months after the publication of such notification in the Official Gazette, object to the proposed declaration.

(4) On the expiration of the said period of two months the State Government may, after considering the objections, if any, received by it, declare by notification in the Official Gazette a heritage asset to be a protected heritage asset.

(5) Notwithstanding anything contained in sub-sections (2) and (3), where the State Government is satisfied with respect to any heritage asset, that there is immediate danger of its removal or destruction, it may instead of proceeding under the said sub-sections, by notification in the Official Gazette and for reasons of its satisfaction to be recorded in such notification, forth with make a declaration under sub-section (4) in respect of any such heritage asset: Provided that any person interested in any such heritage asset may within two months after the publication of such notification object to the declaration so made and the State Government after giving to such person an opportunity of being heard, may by order in writing dismiss the objection or withdraw the notification.

6. (1) Every area wherein a heritage asset is situated and such area adjoining the protected heritage asset as may be specified, on the recommendation of the Council, by the rules made in this behalf shall be the regulated area in respect of such heritage asset. **Regulated area in respect of a heritage asset.**
- (2) Save as otherwise provided in section 7, no person shall carry out any construction or re-construction or repair or renovation in regulated area.
7. Any person, who owns or possesses any building or structure or land in any regulated area, and desires to carry out any construction or re-construction or repair or renovation of such building or structure on such land, as the case may be, may make an application to the competent authority for carrying out construction or re-construction or repair or renovation, as the case may be. **Application for construction or reconstruction or repair or renovation in regulated area**
8. (1) Every application for grant of permission under section 7 shall be made to the competent authority in such manner as may be prescribed. **Grant of permission by competent authority within regulated area**
- (2) The competent authority shall, within fifteen days of the receipt of the application, forward the same to the Authority to consider impact of such construction having regard to the heritage bye-laws.
- (3) The Authority shall, within two months from the date of receipt of application under sub-section (2), recommend to the competent authority either to grant permission or refuse the same.

(5) The recommendations of the Authority shall be final.

(6) In case the competent authority refuses to grant permission under this section, it shall, by order in writing, after giving an opportunity to the concerned person, intimate such refusal within three months from the date of receipt of the application to the applicant.

(7) If the competent authority, after grant of the permission under sub-section (4) and during the carrying out of the repair or renovation work or re-construction of building or construction referred to in that sub-section, is of the opinion (on the basis of material in his possession or otherwise) that such repair or renovation work or re-construction of building or construction is likely to have an adverse impact on the preservation, safety, security or access to the heritage asset considerably, it may refer the same to the Authority for its recommendations and if so recommended, withdraw the permission granted under sub-section (4) if so required;

Provided that the competent authority may, in exceptional cases, with the approval of the Authority grant permission to the applicant referred to in section 7 until the heritage bye-laws have been prepared under sub-section (1) of section 9 and published under sub-section (6) of that section.

**Heritage
bye-laws.**

(8) The competent authority shall exhibit, on its website, all the permissions granted or refused under this Act.

9. (1) The Authority shall prepare heritage bye-laws in respect of protected heritage assets.

(2) The heritage bye-laws referred to in sub-section (1) shall, in addition to such matters as may be prescribed, include matters relating to heritage controls such as elevations, facades, drainage systems, roads and service infrastructure (including electric poles, water and sewer pipelines).

(3) The State Government shall, by rules, specify the time within which such heritage bye-laws shall be prepared, particulars to be included in each such heritage bye-laws and the manner of preparation of detailed site plans in respect of protected heritage assets and regulated area.

(4) The Authority for the purpose of preparation of detailed site plans and heritage bye-laws may appoint such number of experts or consultants as it may deem fit.

(5) A copy of the heritage bye-laws prepared under subsection (1) shall be forwarded to the Council for its approval.

(6) The heritage bye-laws shall, after the approval of the Council, be published by the Authority by notification in the Official Gazette and they shall come into force on the date they are so published.

(7) A copy of the heritage bye-laws, as published under sub-section (6) shall be laid before the House of State Legislature.

(8) The heritage bye-laws shall be made available by the competent authority to the public, by exhibiting the same on its website and also in such other manner as it may deem fit.

**Constitu-
tion of
State
Heritage
Council.**

10. (1) As soon as may be after the commencement of this Act, the State Government shall, by notification in the Official Gazette, constitute a Heritage Council to be called as the Gujarat State Heritage Council.

(2) The Council shall consist of the following, namely:-

- | | | |
|--------|--|--------------------------|
| (i) | <i>Chief Minister of Gujarat</i> | <i>Chairperson;</i> |
| (ii) | <i>Three Ministers to be nominated by the Chief Minister, one of whom shall also be nominated as Vice-Chairperson</i> | |
| (iii) | <i>Secretary in charge of Finance Department</i> | <i>Member;</i> |
| (iv) | <i>Secretary in charge of PanchayatiRaj Department</i> | <i>Member;</i> |
| (v) | <i>Secretary in charge of Tourism Department</i> | <i>Member;</i> |
| (vi) | <i>Secretary in charge of Urban Development and Housing Department</i> | <i>Member;</i> |
| (vii) | <i>Secretary in charge of Environment Department</i> | <i>Member;</i> |
| (viii) | <i>Not less than four and not more than eight experts from the fields of Heritage Conservation, Architecture, Town Planning, History, Civil Engineering or Environment to be nominated by the State Government</i> | <i>Members;</i> |
| (ix) | <i>Secretary in charge of Sports, Youth and Cultural Activities Department</i> | <i>Member Secretary;</i> |

(3) Every member of the Council, including its Chairperson and Vice-Chairperson, shall disclose information regarding their direct or indirect pecuniary interest in a matter being considered or about to be considered by the Council and remove himself from all meetings and proceedings before the Council concerning such matter.

(4) In absence of the Chairperson, the meeting of the Council shall be presided over by the Vice-Chairperson.

(5) The Council may invite any expert or special invitees for its assistance and such expert or special invitee may take part in deliberations in meetings of the Council but shall not be entitled to vote thereat.

(6) The non-Government members of the Council shall be entitled to receive such allowances as may be prescribed.

(7) The State Council shall endeavor to conduct a minimum of two meetings per year, and the requisite quorum shall not be less than fifty percent of the total strength of members.

(8) The Council shall follow such rules of procedure while transacting business at its meetings as may be prescribed.

11. The Council shall supervise, control and direct the functions of the Authority and the competent authorities and in particular and without prejudice to the foregoing general power, exercise and discharge the following powers and functions, namely:-

**Functions
and
powers of
the
Council**

(a) to recommend to the State Government categories and classes of

(c) to approve the heritage bye-laws prepared by the Authority;

(d) to prepare and recommend to the State Government the State Heritage Conservation Policy;

(e) to approve heritage conservation plan prepared by the Authority;

(f) to seek and establish partnerships in heritage conservation efforts between state, national, and external organizations as well as private sector;

(g) to exercise or discharge such other powers and functions as may be prescribed.

12. (1) As soon as may be after the commencement of this Act, the State Government shall, by notification in the Official Gazette, constitute an authority to be called as the Gujarat Heritage Authority.

**Constitution
of State
Heritage
Authority**

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall consist of a Chairperson, to be nominated by the Chief Minister, who shall be an eminent person having knowledge and experience of fifteen years in the fields of Heritage Conservation, Architecture, Town Planning or History and following other members, namely:-

- | | | |
|-------|--|--------------------------|
| (i) | <i>Member Secretary of Heritage Council</i> | <i>Vice Chairperson;</i> |
| (ii) | <i>Secretary in charge of Urban Development and Housing Department</i> | <i>Member;</i> |
| (iii) | <i>Secretary in charge of Tourism Department</i> | <i>Member;</i> |
| (iv) | <i>Secretary in charge of Panchayati Raj Department</i> | <i>Member;</i> |
| (v) | <i>Secretary in charge of Environment Department</i> | <i>Member;</i> |
| (vi) | <i>Not less than three and not more than five experts from the fields of Heritage Conservation, Architecture, Town Planning, History, Civil Engineering or Environment to be nominated by the State Government</i> | <i>Members;</i> |
| (vii) | <i>Director of Archaeology and Museum, Gujarat,</i> | <i>Member-Secretary;</i> |

(4) Every member of Authority including its Chairperson and Vice-Chairperson, shall disclose information regarding their direct or indirect pecuniary interest in a matter being considered or about to be considered by the Authority and remove himself from all meetings and proceedings before the Authority concerning such matter.

(5) In absence of the Chairperson, the meeting of the Authority shall be presided over by the Vice-Chairperson.

(6) The Authority may invite any expert or special invitees for its assistance and such expert or special invitee may take part in deliberations in meetings of the Council but shall not be entitled to vote thereat.

(7) The non-Government members of the Authority shall be entitled to receive such allowances as may be prescribed.

(8) The Authority may meet as often as necessary but endeavour to meet at least once in each quarter.

(9) The requisite quorum for the meeting shall be fifty percent of the total strength of the members.

(10) The Authority shall follow such rules of procedure while transacting business at its meetings as may be prescribed.

Function and power of the Authority

13. The Authority shall exercise and discharge the following powers and functions, namely

- (a) to identify and prepare list and databank of heritage assets in the State;
- (b) to prepare heritage be-laws ;
- (c) to proposed to the Council to make recommendation to the State Government for declaration of a heritage asset as protected heritage asset;
- (d) to conduct survey and prepare site plan of the protected heritage assets and the regulated area declared under section 6;
- (e) to prepare and implement heritage conservation plans;

- (f) oversee the working of the competent authorities;
- (g) to suggest measures for implementation of the provisions of the Act;
- (h) to make recommendations to the competent authority for grant of permission under section 8;
- (i) to acquire rights in heritage assets by way of purchase, lease, gift or bequest for the purpose of conservation;
- (j) to enter into agreement with the owners of a protected heritage asset for their conservation;
- (k) to enter into agreement with any person, firm or trust for the conservation of the heritage assets vested in it or the State Government or in which it has acquired rights or the purposes of conservation;
- (l) to administer the Heritage Fund;
- (m) to prepare and formulate schemes for heritage tourism, including setting up amenities around the heritage site, and conducive transport and connectivity;
- (n) to conduct training programmes in heritage conservation;
- (o) to exercise or discharge such other powers and functions as may be prescribed.

14. (1) The Authority may propose to the owner of a protected heritage asset to enter into an agreement with the Authority within a specified

Conservation
of protected

- (a) the maintenance and upkeep of the heritage asset;
- (b) the custody of the heritage asset and the duties of any person who may be employed to watch it;
- (c) the restriction of the owner's right -
 - (i) to use the heritage asset for any purpose, or
 - (ii) to charge any fee for entry into, or inspection of, the heritage asset, or
 - (iii) to destroy, injure, mutilate, deface, alter, repair, remove or disperse the heritage asset or to allow it to fall into decay;
- (d) the facilities of access to be permitted to the public or any section thereof or to officers of the Authority or to persons deputed by the owner or any officer of the Authority to inspect or maintain the heritage asset;
- (e) the notice to be given to the Authority in case the land on which the heritage asset is situated or any adjoining land is offered for sale by the owner, and the right to be reserved to the Authority to purchase such land, or any specified portion of such land, at its market value;
- (f) the payments of any expenses incurred by the owner or by the Authority in connection with the maintenance and upkeep of the heritage asset;

- (g) the proprietary or other rights which are to vest in the Authority in respect of the heritage asset when any expenses are incurred by the Authority in connection with the maintenance and upkeep of the heritage asset;
- (h) the appointment of an authority to decide any dispute arising out of the agreement; and
- (i) any matter connected with the maintenance and upkeep of the heritage asset which is a proper subject of agreement between the owner and the Authority.

(3) The terms of an agreement under this section may be altered from time to time by the Authority with the consent of the owner.

(4) The Authority or the owner may, at any time after the expiration of three years from the date of execution of an agreement under this section, terminate it on giving six months' notice in writing to the other party:

Provided that, where the agreement is terminated by the owner he shall pay to the Authority the expenses, if any, incurred by it on the maintenance and upkeep of the heritage asset during the five years immediately preceding the termination of the agreement or, if the agreement has been in force for a shorter period, during the period the agreement was in force.

(5) An agreement under this section shall be binding on any person claiming to be the owner of the heritage asset to which it relates, from, through or under a party by whom or on whose behalf the agreement was executed.

Failure or refusal to enter into agreement

15. (1) If any owner or other person competent to enter into an agreement under section 14 for the maintenance and upkeep of a protected heritage asset refuses or fails to enter into such an agreement, the Authority may make an order providing for all or any of the matters specified in sub-section (2) of section 14.

(2) No order under sub-section (1) shall be made unless the owner or such other person has been given an opportunity of making a representation in writing and being heard against the proposed order.

(3) Every order made under sub-section (1) shall be binding on the owner or such other person and on every person claiming title to the heritage asset from, through or under the owner or such other person.

(4) When an order made sub-section (1) provides that the heritage asset shall be maintained by the owner or other person competent to enter into an agreement, all reasonable expenses for the maintenance and upkeep of the heritage asset shall be payable by the Authority.

Enforcement of agreements.

16. (1) If an owner or other person who is bound by an agreement for the maintenance and upkeep of a protected heritage asset under section 14 refuses or fails, within such reasonable time as the Authority may fix, to do any act which in the opinion of the Authority is necessary for the maintenance and upkeep of the heritage asset, the Authority may authorise any person to do any such act, and the owner or other person shall be liable to pay the expenses of doing any such act or such portion of the expenses as the owner may be liable to pay under the agreement.

(2) If any dispute arises regarding the amount of expenses payable by the owner or other person under sub-section (1), it shall be referred to the State Government whose decision shall be final.

17. (1) If the Competent Authority apprehends that the owner or occupier of a protected heritage asset intends to destroy, injure, mutilate, deface, alter, disperse, remove, imperil or misuse the heritage asset or to allow it to fall into decay heritage asset in contravention of the terms of agreement under section 14, it may, after giving such owner or occupier an opportunity of making a representation in writing, make an order prohibiting any such contravention of the agreement:

Power to make order prohibiting contravention of agreement

Provided that no such opportunity may be given in any case where the Competent Authority, for reasons to be recorded in writing, is satisfied that it is not expedient or practicable to do so.

(2) Any person aggrieved by an order made under subsection (1) may appeal to the Authority within such time and in such manner as may be prescribed and the decision of the Authority shall be final.

18. Every person who purchases any land on which is situated a protected heritage asset in respect of which any instrument has been executed by the owner for the time being under section 14, and every person claiming any right, title or interest to or in heritage asset from, through or under an owner who executed any such instrument, shall be bound by such instrument.

Purchasers and persons claiming through owner bound by instrument

19. (1) The Authority may, for the purpose of conservation of a heritage asset vested in it or in the State Government or in which it has

Power to enter into

heritage assets

(2) Notwithstanding anything contained in section 20, the person, firm or trust referred to in sub-section(1) shall be entitled to collect and retain the whole or such portion of the fee leviable under section 20 and for such period, as may be agreed upon between the Authority and such person, firm or trust, as the case may be, having regard to the expenditure involved in the maintenance of the heritage asset and collection of fee, interest on the capital invested, reasonable return on the investment and the volume of visitors.

20. (1) The Authority may, by notification in the Official Gazette, levy entrance fee in respect of heritage assets referred to in sub-section (1) of section 19, at such rates not exceeding two thousand five hundred rupees per head, as may be specified in such notification:

Power to levy entrance fee

Provided that the Authority may, by like notification, exempt, wholly or partly, any class of persons from the payment of entrance fee and shall so exempt if directed so by the State Government.

(2) Such entrance fee when so levied shall be collected in such manner as may be determined by the Authority.

21. (1) For the purpose of discharging its functions, the Authority may, with the prior approval of the State Government, appoint such number of officers and employees as it may consider necessary.

Staff of the Authority

(2) The salary, allowances and other terms and conditions of service of the officers and employees of the Authority shall be such as may be

prescribed by regulations made by the Authority with the prior approval of the State Government.

Heritage Fund

22.(1) There shall be established a fund known as the Gujarat Heritage Fund for the purposes of this Act.

(2) The State Government shall, after due appropriation made by the State Legislature by law in this behalf, pay to the Heritage Fund by way of grants such sum of money as the State Government may think fit for being utilised for the purposes of this Act.

(3) In addition to the sum of money paid by the State Government under sub-section (2), the following shall be credited to the Heritage Fund, namely:-

(a) contributions, aids or donations from Central Government, national or international agencies, non-government organizations or agencies for the purpose of heritage conservation or donations from any trusts, societies, associations of persons, individuals etc., interested in heritage conservation;

(b) any sum of money received by the Authority by way of fees;

(c) any other sum of money received by the State Government, the Council or the Authority for the purpose of heritage conservation.

(4) The Heritage Funds shall be utilised by the Authority for meeting out the expenses incurred in the carrying out the purposes of this Act including the payment of allowances to the non-Government members of the Council and the Authority, payment of salaries and allowances to the officers and staff of the Authority.

(5) The Heritage Fund shall be administered by the Authority in such manner as may be prescribed.

Budget

23 (1) The Authority shall prepare in each financial year, in such form and at such time as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Authority and forward the same for the approval of the Council and the State Government. (2) The Authority shall not incur any expenditure otherwise than in accordance with the budget provisions as approved by the State Government.

Annual report

24. The Authority shall prepare, in such form and at such time as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and its plans for the forthcoming year, and submit a copy thereof to the State Government and the Council. Every annual report shall also contain a review of the performance of the Authority in respect of the plans contained in the preceding annual report.

Accounts and audit

25. (1) The accounts of the Authority shall be maintained in such form and manner as may prescribe and shall be audited by the Director of Local Fund Audit Department or by such other person or body as the State Government may determine from time to time.

(2) The Authority shall furnish to the State Government before such date as may be prescribed a copy of its audited accounts together with the auditor's report thereon.

26. The State Government shall cause the annual report of the Authority and the auditor's report to be laid, as soon as may be, after they are received, before the House of the State Legislature.
- Annual report and auditor's report to be laid before the State Legislature**
27. The Authority shall, in exercise of its powers or the discharge of its functions under this Act, be bound by such directions as the Council may give in writing to it from time to time:
- Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this section.
- Power of the Council to issue directions to Authority**
28. The competent authority shall, in exercise of its powers or the discharge of its functions under this Act, be bound by such directions, as the Authority may give in writing to it from time to time.
- Power of the Authority to issue directions to competent authority**
29. No civil court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.
- Bar of jurisdiction of civil court**
-
- competent authority, as the case may be, to furnish in writing such information, in such form and manner as may be prescribed, relating to its affairs as the State Government or the Council may require.
- information**
31. (1) Notwithstanding anything to the contrary contained in any Gujarat law, the local authorities shall be bound to assist the Council and the Authority in discharge of their functions under this Act and provide all the reasonable assistance required by the Council or the Authority or any officer or employee of the Authority required by them in connection with the carrying out the provisions of this Act.
- Local authorities to assist the Council and the Authority.**
- (2) If any local authority incurs any expenditure in complying with any requisition made under sub-section(1), the Authority shall reimburse such expenses.
- (3) If any dispute arises between the Authority and a local authority regarding the amount of the expenses payable by the Authority, the same shall be referred to the State Government and the decision of the State Government thereon shall be final and binding on the Authority and the local authority concerned.
32. (1) Whoever -
- Penalties**
- (a) destroys, injures, mutilates, defaces, alters, removes, disperses, misuses, imperils or allows to fall into decay a protected heritage asset, or
- (b) being the owner or occupier of protected heritage asset, contravenes an order made under section 17, or

(c) carries out any construction, re-construction or repair and renovation in the regulated area without the previous permission of the competent authority or in contravention of the permission granted by the competent authority, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to fifty thousand rupees or with both.

(2) Whoever contravenes any other provisions of this Act or the provisions of the rules, regulations or bye-laws made thereunder shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to twenty thousand rupees or with both.

(3) If any officer of the State Government, the Authority or any local authority enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals or connives at any act or thing whereby any unauthorised construction, re-construction or repair or renovation takes place in a regulated area, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

The members, officers and employees of the Council and the Authority to be public servants.

33. All members, officers and employees of the Council and the Authority shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rule, regulation or bye-law made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860).

Protection of action taken in

34. No suit, prosecution or other legal proceeding shall lie against the Council or the Authority or any member or officer or employee thereof for anything which is in good faith done or intended to be done under this Act or the rules, regulations or bye-laws made thereunder.

Power of entry

35. Subject to any rules made in this behalf, any person, generally or specially authorised by the State Government or the Council or the Authority in this behalf, may, whenever it is necessary so to do for any of the purposes of this Act, at all reasonable times, enter upon any land or premises, and-

- (a) make any inspection, survey, measurement, valuation or enquiry;
- (b) take levels;
- (c) dig or bore into sub-soil;
- (d) set out boundaries and intended lines of work;
- (e) mark such boundaries and lines by placing marks and cutting trenches; or
- (f) do such other acts or things as may be prescribed:

Provided that no such person shall enter any boundary or any enclosed court or garden attached to a dwelling house (except with the consent of the occupier thereof) without previously giving such occupier at least twenty-four hours' notice in writing of his intention to do so.

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

(2) Every rule made under this Act shall be laid, as soon as may be after it is so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen 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 of the sessions immediately following, the House of the State Legislature makes any modification in the rule or resolves that the rule should not be made, the rule shall thereafter 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 thereunder.

STATEMENT OF OBJECTS AND REASONS

The State of Gujarat has rich heritage inherited from the past, therefore, it shall be the duty of the State to value and preserve the rich heritage of our culture such as architecturally and aesthetically beautiful and cultural buildings, their surroundings, etc. and to protect and improve the natural surroundings appurtenant to the heritage assets.

Maintenance, adaptation, use and re-use can allow the architectural heritage to yield aesthetic, environmental and economic benefits even where the original use may no longer be viable. The creative challenge is to find appropriate ways to satisfy the requirements of a structure to be safe, durable and useful on the one hand, and to retain its character and historical and architectural interest on the other.

To undertake the issues in heritage conservation it is considered appropriate to identify the heritage assets which merit conservation and to categorize and classify them based on their aesthetic, cultural, historical, scientific, social, ecological environmental or spiritual significance and also to provide for their protection.

The Bill seeks to achieve the aforesaid objectives.

Hence the Bill.

Gandhinagar
Dated the 9th February, 2016

BALVANTSINH RAJPUT
M.L.A.

FINANCIAL MEMORANDUM

Clauses 10, 12, 14 and 22 of the Bill provide for constitution of State Heritage Council and Heritage Authority for the purpose of discharging the functions prescribed in the Bill. The Secretariat of this Council and Authority will be established in Archaeology and Museum Department, Gujarat.

The State Government shall pay to the Heritage Fund by way of grants as may think fit for utilising for the purpose of this Bill.

The estimated expenditure shall be rupees 151 lac, out of which Rupees 300 lac shall be recurring expenditure for one year and rupees 200 lac as non-recurring expenditure.

Gandhinagar
Dated the 9th February, 2016

BALVANTSINH RAJPUT
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Following clauses of the Bill, if enacted, shall empower, the State Government to make rules and Authority to make regulations with respect to matters stated against each such clause:-

- | | |
|--------|---|
| 4(1) | prescribing the categories of heritage assets on the recommendation of the Council; |
| 8(1) | prescribing the manner in which the application for grant of permission shall be made to the competent authority; |
| 9(2) | prescribing the matters which shall be included in heritage bye-laws; |
| 10(6) | prescribing the allowances of non-Government members of the Council; |
| 10(8) | prescribing the rules of procedure, while transacting its business, to be followed by the Council; |
| 11(g) | prescribing the other powers and functions of the Council; |
| 12(7) | prescribing the allowances of non-Government members of the Authority; |
| 12(10) | prescribing the rules of procedure, while transacting its business, to be followed by the Authority; |
| 13(o) | prescribing the other powers and functions of the Authority; |
| 17(2) | prescribing the time and manner in which the appeal to the Authority; |
| 22 (5) | prescribing the manner in which, the Heritage Fund shall be administered by the Authority; |
| 23 (1) | prescribing the form in which and time at which the budget shall be prepared by the Authority; |

- 24 prescribing the form in which and time at which the annual report shall be prepared by the Authority;
- 25 (1) prescribing the form and manner in which the Authority shall maintain the accounts;
- 25 (2) prescribing the date before which the Authority shall furnish a copy of its audited accounts together with the auditor's report to the State Government;
- 30 prescribing the form and manner in which the information in writing to be furnished;
- 35 (f) prescribing the other acts or things to be done by any person authorized by the State Government or the Council or the Authority;
- 36 generally to carry out the purposes of this Act;

Authority

- 21 (2) prescribing the salary, allowances and other terms and conditions of service of the officers and employees of the Authority.

The proposed delegation is of normal character and mainly relates to the matters of detail.

Gandhinagar
Dated the 9th February, 2016

BALVANTSINH RAJPUT
M.L.A.

Gandhinagar
Dated the 22nd March, 2016

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