

KARNATAKA ACT NO 1 OF 2007
THE KARNATAKA TOWN AND COUNTRY PLANNING AND CERTAIN OTHER LAWS
(AMENDMENT) ACT, 2004

Arrangement of Sections

Sections:

1. Short title and commencement
2. Amendment of Karnataka Act 11 of 1963
3. Amendment of Karnataka Act 14 of 1977
4. Amendment of Karnataka Act 22 of 1964

STATEMENT OF OBJECTS AND REASONS

Amending Act 1 of 2007.— It is considered necessary and expedient in public interest to provide for regularisation of certain unauthorised constructions and to define the parameters thereof by amending the Karnataka Town and Country Planning Act, 1961, the Karnataka Municipal Corporations Act, 1976 and the Karnataka Municipalities Act, 1964 in the following manner, namely:-

- (1) to regularise, subject to payment of prescribed fee,-
 - (a) all unauthorised constructions as on the date of passing of the Amendment Act.
 - (b) all violations of change of land user
 - (c) all constructions made on revenue sites

except, developments affecting,-

- (i) alignment of Ring Road, Highways
- (ii) lands belonging to Government, Local Authorities and Development Authorities, and Parks and Open spaces
- (iii) Basement floor earmarked as parking space, and

(2) to prescribe the fee for different types of contravention permitted and

(3) to provide for other consequential and incidental matters.

Hence the Bill.

(L.C.Bill No.11 of 2004)

(Entries 5 and 18 of List II and entry 20 of List III of the Seventh Schedule to the Constitution of India.)

KARNATAKA ACT NO 1 OF 2007

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**THE KARNATAKA TOWN AND COUNTRY PLANNING AND CERTAIN OTHER LAWS
(AMENDMENT) ACT, 2004**

(Received the assent of the Governor on the third day of February, 2007)

An Act further to amend the Karnataka Town and Country Planning Act, 1961, the Karnataka Municipal Corporations Act, 1976 and the Karnataka Municipalities Act, 1964.

Whereas it is expedient further to amend the Karnataka Town and Country Planning Act, 1961, (Karnataka Act 11 of 1963), the Karnataka Municipal Corporations Act, 1976 (Karnataka Act 14 of 1977) and the Karnataka Municipalities Act, 1964 (Karnataka Act 22 of 1964).

Be it enacted by the Karnataka State Legislature in the fifty-fifth year of the Republic of India, as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Town and Country Planning and Certain Other Laws (Amendment) Act, 2004.

(2) It shall come into force on such date as the State Government may, by notification appoint.

2. Amendment of Karnataka Act 11 of 1963.- In the Karnataka Town and Country Planning Act, 1961 (Karnataka Act 11 of 1963), after section 76F, the following shall be inserted, namely:-

"76 FF. Regularisation of certain development and change of land use.- (1) Notwithstanding anything contained in this Act, where any land has been developed or change in land use is made in contravention of section 14, 14A, section 15, section 17 or the regulations or in contravention of commencement certificate granted under section 15, the Planning Authority may regularise such development and change of land use made prior to the date of commencement of the Karnataka Town and Country Planning and Certain other Laws (Amendment) Act, 2004, subject to such rules as may be prescribed and on payment of the prescribed amount, which may be different for different purposes, but not exceeding the estimated cost of the development.

(2) No such development or change in land use referred to in sub-section (1) shall be regularised, if it is made,-

- (i) in the land affected by the alignments of any road or of proposed inner ring road, National High Ways, bypass road, outer ring road or mass rapid transit system (rail) projects;
- (ii) on the land belonging to the State Government or the Central Government or appurtenant to any building belonging to the State Government or the Central Government;
- (iii) on the land belonging to an other person over which the former has no title;
- (iv) on the land belonging to any Board or Corporation owned or controlled by the Central Government or the State Government;
- (v) on the land belonging to, or vested in, any Urban Development Authority or Bangalore Development Authority;
- (vi) on the land belonging to, or vested in, a local authority;

- (vii) on the land abutting to storm water drains, tank bed areas, river course or beds and canals or below the high tension electric line;
- (viii) in land reserved for parks, playgrounds, open space or for providing civic amenities.

(3) No development being a special and hazardous industry or an industry categorised as "RED" by the Karnataka Pollution Control Board shall be regularised in a non-conforming zone. Even in a conforming zone, it shall be regularised only with the clearance from the Karnataka Pollution Control Board.

(4) No development shall be regularised unless it conforms in respect of clearance from high-tension lines and fire protection measures.

(5) No development shall be regularised in the area covered by the Coastal Zone Regulations of the Ministry Environment and Forest, Government India.

(6) No development made in basement or usage in contravention of bye law shall be regularized.

(7) No development in violation of set back norms exceeding twenty-five percent in case of non-residential buildings and fifty percent in case of residential buildings shall be regularized.

(8) No development shall be regularised unless the violation in respect of change in land use is first regularised.

(9) No development where the violation is in excess of such prescribed limit but not exceeding fifty percent of permissible floor area ratio in respect of residential buildings and not exceeding twenty five percent of permissible floor area ratio in respect of non-residential buildings shall be regularized and different maximum limit may be prescribed in respect of different class of development:

Provided that where such development resulting in violation is in excess of prescribed limit, such development shall not be regularized unless the development resulting in violation is brought down within the regularisable limit under this Act.

(10) Regularisation of violation in respect of change of land use shall be made as far as may be in accordance with section 14A;

(11) No development in respect of any building having more than two floors shall be regularised unless a certificate from a Structural Engineer is produced regarding the structural stability of such building;

(12) In case of a owner of the building who has made unauthorized construction in violation of the norms or zonal regulation and do not apply for regularization within the prescribed time, the supply of water and electricity to the building shall be liable to be disconnected with prior notice.

(13) Any person seeking regularization under this section shall make an application to the Planning Authority within three months from the date of commencement of the Karnataka Town and Country Planning and Certain Other Laws (Amendment) Act, 2004.

(14) No unauthorised construction or development made in agricultural zone of approved Master Plan or green belt area declared under Karnataka Land Revenue Act, 1964 shall be regularized.

(15) No person shall be liable to pay fine or fee for regularization under any other law if he has paid regularization fee under this Act for the same violations.

(16) All payments made under sub-section (1) shall be credited to a separate fund kept in the concerned Local/Planning Authority called the urban areas infrastructure Development fund which shall be utilized in such manner, for the development of infrastructure, civic amenities, lighting, parks, drinking water, drainage system and for any other infrastructure, as may be prescribed.

76FFF. Penalty against jurisdictional officer failing to prevent unauthorised deviations or constructions.- The jurisdictional officer who is proved to have failed to prevent unauthorized deviation or construction that have taken place in his jurisdiction shall be liable for such punishment as may be prescribed."

3. Amendment of Karnataka Act 14 of 1977.- In the Karnataka Municipal Corporations Act, 1976 (Karnataka Act, 14 of 1977), after section 321, the following shall be inserted, namely:-

"321-A. Regularisation of certain unlawful buildings.- (1) Notwithstanding anything contained in this Act, when construction of any building is completed in contravention of the section 300, section 321 and building by laws made under section 423, the Commissioner may regularise building constructed prior to the date of commencement of the Karnataka Town and Country Planning and Certain other Laws (Amendment) Act, 2004 subject to the following restrictions and such rules as may be prescribed and on payment of the amount specified in sub-section (2), namely:-

(a) Where the building is built abutting the neighbouring property or where the set back provided is less than the limit prescribed in bye laws, violation upto twenty-five percent in case of non-residential buildings and fifty percent in case of residential buildings shall be regularized.

(b) No development made in the basement or usage in contravention of bye law shall be regularized.

(c) The construction of building shall not be regularised if it violates the building line specified on any given road unless the owners of such building furnish an undertaking that the space between the building line and the road or footpath or margin will be given up free of cost at any time when required for the purpose of widening the road in question.

(d) The provisions of sub-sections (2) to (14) of section 76 FF of the Karnataka Town and Country Planning Act, 1961, shall apply mutatis mutandis for regularization of building under this section and application for regularization being made to the Commissioner.

(2) Regularisation of any construction under this section shall be subject to payment of the prescribed amount which may be different for different types of contravention of building bye-laws;

Provided that the amount so prescribed shall not be less than,-

(i) ten percent of the market value, determined in accordance with the Karnataka Stamp Act, 1957 and rules made thereunder, of the portion of the building built in violation of the provisions referred to above, if such violation of set back norms and permissible floor area ratio does not exceed twenty five percent;

(ii) twenty five percent of the market value, determined in accordance with the Karnataka Stamp Act, 1957 and the rules made thereunder, of the portion of the building built in violation of the provisions referred to above, if such violation of set back norms and permissible floor area ratio exceeds twenty five percent but does not exceed fifty percent:

Provided further that where the portion of the building is built in violation of the provisions referred to above is being used or meant for non-residential purpose and amount payable for regularization of such portion shall be,-

(a) twenty five percent of the market value, determined in accordance with the Karnataka Stamp Act, 1957 and the rules made thereunder, of the portion of the building built in violation of the provisions referred to above, if such violation of set back norms and permissible floor area ratio does not exceed twelve and a half percent;

(b) forty percent of the market value, determined in accordance with the Karnataka Stamp Act, 1957 and the rules made thereunder, of the portion of the building built in violation of the provisions referred to above, if such violation of set back norms and permissible floor area ratio exceeds twelve and a half percent but does not exceed twenty five percent.

(3) No person shall be liable to pay fine or fee for regularization under any other law if he has paid regularization fee under this Act for the same violations.

(4) All payments made under sub-section (1) shall be credited to a separate fund kept in the concerned Local/Planning Authority called the urban areas infrastructure Development fund which shall be utilized in such manner, for the development of infrastructure, civic amenities, lighting, parks, drinking water, drainage system and for any other infrastructure, as may be prescribed.

321B. Penalty against jurisdictional officer failing to prevent unauthorised deviations or constructions.- The jurisdictional officer who is proved to have failed to prevent unauthorized deviation or construction that have taken place in his jurisdiction shall be liable for such punishment as may be prescribed."

4. Amendment of Karnataka Act 22 of 1964.- In the Karnataka Municipalities Act (Karnataka Act 22 of 1964), after section 187, the following shall be inserted, namely:-

"187-A. Regularisation of certain unlawful building.-(1) Notwithstanding anything contained in this Act, when construction of any building is completed in contravention of section 187 and building bye-laws, the Municipal Commissioner or the Chief Officer, as the case may be, may regularise building constructed prior to the date of commencement of the Karnataka Town and Country Planning and Certain other Laws (Amendment) Act, 2004, subject to the following restrictions and such rules as may be prescribed and on payment of the amount specified in sub-section (2), namely:-

- (a) Where the building is built abutting the neighbouring property or where the set back provided is less than the limit prescribed in bye laws, violation upto twenty-five percent in case of non-residential buildings and fifty percent in case of residential buildings shall be regularized.
- (b) No development made in the basement or usage in contravention of bye law shall be regularized:
- (c) The construction of a building shall not be regularised if it violates the building line specified on any given road unless the owners of such building furnish an undertaking that the space between the building line and the road or footpath or margin will be given up free of cost at any time when required for the purpose of widening the road in question.
- (d) The provisions of sub-sections (2) to (14) of section 76 FF of the Karnataka Town and Country Planning Act, 1961, shall apply mutatis and mutandis for regularization of building under this section and the application being made to the Municipal Commissioner or the Chief Officer, as the case may be.

(2) Regularisation of any construction under this section shall be subject to payment of the prescribed amount which may be different for different types of contravention of building bye-laws;

Provided that the amount so prescribed shall not be less than,-

(i) ten percent of the market value, determined in accordance with the Karnataka Stamp Act, 1957 and rules made thereunder, of the portion of the building built in violation of the provisions referred to above, if such violation of set back norms and permissible floor area ratio does not exceed twenty five percent;

(ii) twenty five percent of the market value, determined in accordance with the Karnataka Stamp Act, 1957 and the rules made thereunder, of the portion of the building built in violation of the provisions referred to above, if such violation of set back norms and permissible floor area ratio exceeds twenty five percent but does not exceed fifty percent:

Provided further that where the portion of the building is built in violation of the provisions referred to above is being used or meant for non-residential purpose and amount payable for regularization of such portion shall be,-

(a) twenty five percent of the market value, determined in accordance with the Karnataka Stamp Act, 1957 and the rules made thereunder, of the portion of the building built in violation of the provisions referred to above, if such violation of set back norms and permissible floor area ratio does not exceed twelve and a half percent;

(b) forty percent of the market value, determined in accordance with the Karnataka Stamp Act, 1957 and the rules made thereunder, of the portion of the building built in violation of the provisions referred to above, if such violation of set back norms and permissible floor area ratio exceeds twelve and a half percent but does not exceed twenty five percent.

(3) No person shall be liable to pay fine or fee for regularization under any other law if he has paid regularization fee under this Act for the same violations.

(4) All payments made under sub-section (1) shall be credited to a separate fund kept in the concerned Local/Planning Authority called the urban areas infrastructure Development fund which shall be utilized in such manner, for the development of infrastructure, civic amenities, lighting, parks, drinking water drainage system and for any other infrastructure, as may be prescribed.

187B. Penalty against jurisdictional officer failing to prevent unauthorised deviations or constructions.- The jurisdictional officer who is proved to have failed to prevent unauthorized deviation or construction that have taken place in his jurisdiction shall be liable for such punishment as may be prescribed."

By Order and in the name of the Governor of Karnataka

G.K. BOREGOWDA

Secretary to Government,
Department of Parliamentary Affairs and Legislation