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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 79-L.— 20th January, 2017.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act XVI of 2016

**THE NEW TOWN, KOLKATA DEVELOPMENT AUTHORITY
(AMENDMENT) ACT, 2016.**

[Passed by the West Bengal Legislature.]

*[Assent of the Governor was first published in the Kolkata Gazette,
Extraordinary, of the 20th January, 2017.]*

An Act to amend the New Town, Kolkata Development Authority Act, 2007.

WHEREAS it is expedient to amend the New Town, Kolkata Development Authority Act, 2007, for the purposes and in the manner hereinafter appearing;

West Ben. Act
XXX of 2007.

It is hereby enacted in the Sixty-seventh Year of the republic of India, by the Legislature of West Bengal, as follows:—

Short title and
commencement.

1. (1) This Act may be called the New Town, Kolkata Development Authority (Amendment) Act, 2016.

(2) This section shall come into force at once, and the remaining sections shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions of this Act.

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(Sections 2-5.)

Amendment of section 2 of West Ben. Act XXX of 2007.

2. In Chapter I, in sub-section (1) of section 2 of the New Town, Kolkata Development Authority Act, 2007 (hereinafter referred to as the principal Act), after clause (c), the following clause shall be inserted:—

‘(ca) “Government” means the Government of West Bengal in the Urban Development Department;’.

Amendment of section 20.

3. In Chapter V, for sub-section (1) of section 20 of the principal Act, the following sub-section shall be substituted:—

“(1) The Development Authority shall open accounts with such Nationalized Banks and with such Scheduled Banks, as may be prescribed.”.

Omission of section 36B.

4. Section 36B of the principal Act shall be omitted.

Insertion of a new Chapter after Chapter VII.

5. After Chapter VII of the principal Act, the following Chapter shall be inserted:—

“CHAPTER VIIA

TAXATION

Powers of Taxation and Property Taxes

A. Levy of Taxes

Taxes to be levied by the Development Authority.

36C. (1) The Development Authority shall, for the purposes of this Act, have the Power to levy property tax on land and building within New Town.

(2) The levy, assessment and collection of taxes mentioned in sub-section (1) shall be in accordance with the provisions of this Act and the rules and the regulations made thereunder and such levy, assessment and collection of taxes under this Chapter may be made electronically or otherwise in such manner as may be prescribed by the rules, or specified by the regulations.

B. Property tax on land and building

Property tax on lands and buildings.

36D. (1) For the purposes of this Act, a property tax on land and buildings within New Town, as determined under this Chapter, shall be imposed by the Development Authority.

(2) The property tax,—

- (a) for any building, shall be equal to a percentage of such annual value of covered space of building, as determined under section 36H, subject to the minimum and maximum limit as specified in sub-section (3);

Explanation.—The expression ‘covered space’, in relation to a building, shall mean the total floor area including the thickness of wall, and shall include the spaces of covered courtyard, gangway, garage, open garage, *verandah*, common service area, balcony and such other spaces as may be determined in the regulations;

- (b) for any land comprising building or any vacant land in respect of any premises, shall be equal to a percentage of such annual value of land comprising building or any vacant land, as determined under section 36H, subject to the minimum and maximum limit as specified in sub-section (4).

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(3) Save as otherwise provided in this Act, the rates of property tax, on buildings in New Town, shall be between a minimum of six *per centum* and a maximum of twenty *per centum*, of the annual values of such buildings, as may be specified in the scheme:

Provided that the Development Authority may, at any time, specify fixed rates between the minimum and the maximum rates of property tax, for different categories of areas or for different groups of buildings in such categories, through the scheme:

Provided further that the Development Authority may introduce graduated rates of property tax within the minimum and the maximum rates of property tax on the basis of any system as may be determined by the regulations.

(4) Save as otherwise provided in this Act, the rates of property tax, on land comprising building or any vacant land in New Town, shall be between a minimum of six *per centum* and a maximum of twenty *per centum*, of the annual values of such land as may be specified in the scheme:

Provided that the Development Authority may, at any time, specify fixed rates between the minimum and the maximum rates of property tax, for different categories of areas or group of lands within such categories, by the scheme:

Provided further that the Development Authority may introduce graduated rates of property tax within the minimum and the maximum rates of property tax on the basis of any system as may be determined by the regulations.

(5) Save as otherwise provided in this Act, any tax levied under this Act shall be payable on such dates, in such number of installments, and in such manner, as may be prescribed:

Provided that if any amount due is paid on or before the date as specified, a rebate of five *per centum* of such amount shall be allowed and if annual property tax is paid in a single installment within the due date of first installment, an additional rebate of five *per centum* shall be allowed.

(6) In calculating the gross amount of property tax including other taxes that may be imposed on lands and buildings *per* quarter and the net amount payable *per* quarter after allowing rebate under sub-section (5), the fraction of a rupee shall be rounded off to the nearest rupee, fifty *paise* being treated as rupee one.

(7) Notwithstanding anything contained in this Chapter, lands and buildings which are the properties of the Central Government shall be exempted from the property tax:

Provided that the Development Authority may levy a service charge on such lands and buildings on the basis of such annual value and at such rate as may be calculated at the rate of 75 *per centum*, 50 *per centum* or 33.1/3 *per centum* of the property tax otherwise payable, depending upon utilization of full, partial or nil services respectively:

Provided that the service charge payable by the Central Government shall not be more than the service charge and/or property tax paid by the State Government for its properties and if any exemption or concession is granted for the properties of the State Government, the same shall apply to the properties of the Central Government.

(8) Notwithstanding anything contained in this Chapter, lands and buildings of the West Bengal Housing Infrastructure Development Corporation Limited, shall be exempted from the property tax:

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Provided that the Development Authority may levy a service charge on such building on the basis of such annual value and at such rate as may be determined by the Development Authority from time to time.

(9) Notwithstanding anything contained in sub-section (2), the property tax on the—

(a) land owned by or belonging to—

- (i) the Kolkata Metropolitan Development Authority constituted under the West Bengal Town and Country (Planning and Development) Act, 1979, or West Ben. Act XIII of 1979.
- (ii) the West Bengal Infrastructure Development Corporation established under the West Bengal Infrastructure Development Corporation Act, 1974, or West Ben. Act XXV of 1974.
- (iii) the West Bengal Housing Board constituted under the West Bengal Housing Board Act, 1972, or West Ben. Act XXXII of 1972.
- (iv) such other statutory body as may be notified by the State Government in this behalf from time to time, for the purposes of development schemes in accordance with the published or approved plans but not put to such use,

shall be ten *per centum* of the annual value of such land as determined under this Chapter;

- (b) land or building acquired, constructed, purchased or owned by the Government or any of the Statutory bodies mentioned in this sub-section for any Government approved scheme for the purpose of subsidized housing for person belonging to low income group or economically weaker section or industrial worker and comprising of tenements let out to such persons on a monthly rent, shall be six *per centum* of the annual value of such land or building determined under this Chapter;
- (c) land or building acquired, constructed, purchased or owned by the Government or any of the Statutory bodies mentioned in this sub-section for any other purpose, shall be at the rate determined under sub-section (2) of this section.

Exemption on
land and building
from property tax.

36E. (1) Notwithstanding anything contained in the foregoing sections of this Chapter,—

- (a) the Development Authority shall exempt from the property tax—
 - (i) lands and buildings or portions thereof exclusively used for the purpose of public worship, or
 - (ii) land and building or portions thereof exclusively used for the purpose of public burial or as burning ground, or any other place used for the disposal of the dead, or
 - (iii) parade grounds which are the properties of the Government, or
 - (iv) Social Welfare Homes run by the State Government, or
 - (v) the land and building as may be notified by the Government.

Explanation.—For the purpose of sub-clause (i) of clause (a) of this sub-section, any land or building used for purpose of public worship shall not be deemed to be exclusively used for such purpose, if on such land or in such building any trade or business is carried on or any rent is derived in respect of such land or building;

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(b) the Development Authority may exempt from the property tax—

(i) any land or building, the annual value of which does not exceed five thousand rupees:

Provided that where a person owns or occupies more than one piece of land or more than one building and the aggregate of annual value of all such land and building exceeds five thousand rupees, such land and building shall not be exempted from the property tax;

(ii) any self-occupied residential land or building or portion thereof, annual value of which does not exceed five thousand rupees and owned singly or jointly by citizen who attained the age of sixty-five years or more, or owned by widow or deserted women irrespective of age, or a certified physically challenged person, as may be specified, irrespective of age, or jointly owned by any of these categories of persons:

Provided that where such a person owns or occupies, for residential purpose, more than one piece of land or more than one building or portion thereof, such person shall get benefit for such exemption for one plot of land or for one building or portion thereof;

(iii) any land or building exclusively used with the approval of the Development Authority for the purpose of public charity or for the purpose of medical relief to, or education of, the poor, free of charge;

(iv) any land used for street, any water body, any swimming pool, any open space for public play-ground or any public park under any of the statutory bodies mentioned in sub-sections (8) and (9) (a) of section 36D;

(c) the Development Authority may, after prior approval of the State Government, exempt from payment of a portion of property tax not exceeding thirty *percent* of the actual gross amount of property tax on any lands or buildings or portion(s) thereof which is exclusively used for Information Technology Industry or Information Technology Enabled Services or where at least fifty *percent* of covered area is used for such purpose:

Provided that such exemption shall be allowed for the first five years from the quarter following the date of approval of the State Government.

Explanation I.—For the purpose of this section, ‘Information Technology Industry’ means the Information Technology Industry exclusively engaged in software programming and software development;

Explanation II.—For the purpose of this section, ‘Information Technology Enabled Services’ means that sector of Information Technology Industry which aims at providing various services through the use of Information Technology and includes call centers, claim processing, medical transcription, legal transcription, content development or computer animation, data processing, computer aided engineering and computer aided design, geographic information system services, remote maintenance, revenue accounting support centers, website services and other operations such as accounting, data processing and data mining and such other type

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of services that are not possible to be provided without the use of Information Technology and such other services as may be determined by the Department of Information Technology, Government of West Bengal, as Information Technology Enabled Services.

Explanation.— For the purpose of getting exemption under clause (c), the applicant shall, with the application, submit a certificate to be issued by the Department of Information Technology, Government of West Bengal, to the effect that the industry or the service, in respect of which the exemption under clause has been sought for by the applicant, is an Information Technology Industry or Information Technology Enabled Services.

(2) The Development Authority shall cause to be maintained a register showing separately the land and building exempted from the property tax under sub-section (1) in such form as may be determined by the Development Authority by the regulations and such register shall be open to the public for inspection.

Exemption and manner of exemption of property tax in certain cases.

36F. Notwithstanding anything contained in the foregoing provision of this Chapter, the property tax shall be exempted in the following manner and cases:—

- (a) the State Government may, by order, exempt from the payment of any rate, tax or fee payable under the provisions of this Act to any diplomatic or consular mission of a foreign State and the diplomatic or consular officers of such mission;
- (b) the Development Authority may, by a resolution, exempt upto fifty *percent* of the property tax on any land or building to a person belonging to economically weaker sections or to a land loser who has lost his land or building in any part of the New Town and who is residing on that land or building in New Town;
- (c) the Development Authority may, by a resolution, exempt upto twenty-five *percent* of the property tax on any land or building belonging to the family of a deceased soldier, who has no other land or building in any part of the State of West Bengal and who is residing on that land or building;
- (d) the Development Authority may, by a resolution, exempt upto twenty-five *percent* of the property tax on any land or building belonging to a physically challenged person who has no other land or building in any part of the State of West Bengal and who is residing on that land or building;
- (e) the Development Authority may, by a resolution, exempt upto twenty-five *percent* of the property tax on any land or building belonging to a Freedom Fighter or to his family who has no other land or building in any part of the State of West Bengal and who is residing on that land or building;
- (f) the Development Authority may, by a resolution, exempt upto twenty-five *percent* of the property tax on any land or building belonging to a Winner of National Award who has no other land or building in any part of the State of West Bengal and who is residing on that land or building;
- (g) the Development Authority may, by a resolution, exempt upto twenty-five *percent* of the property tax on any land or building belonging to the assessee as mentioned in sub-section (8) and (9) of section 36D.

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Power to provide relief.

36G.(1) Whenever from the circumstances of the case, levy of property tax on any property amounts to excessive hardship to the person liable to pay the same, the Development Authority may, on application, in writing, by the tax-payer concerned, review the amount payable on account of such property or realize the sum in instalments:

Provided that such reduction or remission, if allowed, shall not have effect for more than one year.

(2) The Development Authority may, for the purpose of examination of the applications submitted under sub-section (1), constitute a committee, which shall make recommendations for any relief to the Development Authority for consideration.

C. Determination of annual valuation

Determination of annual valuation.

36H. (1) The annual value for the purpose of property tax, shall be determined as follows:—

- (a) the State Government shall after coming into force of this Chapter, and thereafter at the expiration of every five year, constitute, by notification in the *Official Gazette*, a Property Valuation Committee, the terms and conditions thereof, shall be such as may be specified;
- (b) the Property Valuation Committee shall consist of—
 - (i) Member-Secretary of the Development Authority as Chairman, and
 - (ii) such other members, being not less than two and not more than six, as the State Government may, by notification, appoint;
- (c) the Property Valuation Committee shall specify the base unit area values of vacant land or land comprising building or covered space of building, or portion thereof falling within New Town considering the land use pattern, cost of land, cost of construction and revenue simulation of the Development Authority and the Property Valuation Committee may determine different base unit value for different areas;
- (d) the Property Valuation Committee shall also recommend to the Development Authority the multiplicative factors for increasing or decreasing, or for not increasing or decreasing, the base unit area values for covered space or land comprising building or any vacant land within New Town, taking into consideration the parameters of type of location, use, age, structure and occupancy status and such other relevant factors of such land, land including any building or buildings, as the case may be, as the Property Valuation Committee considers necessary along with a point scale, assigned for each parameter to be determined by the Property Valuation Committee, subject to a lower limit of 0.5 and upper limit of 8.0 in the said point scale for the purpose of deriving at the final base unit area value of such land, land including any building or buildings;
- (e) on receipt of the recommendations of the Property Valuation Committee under clause (d), a draft scheme, for the purpose of specifying the base unit area value and the values pertaining to the multiplicative factors, shall be published by the Development Authority in the *Official Gazette* and

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also in two leading newspapers, of which one shall be in the vernacular intelligible to the residents of the area concerned, and also on *website* of the Development Authority and a copy of the said notification shall also be placed in the conspicuous places in the offices of the Development Authority;

- (f) any person may, whose interest is likely to be affected thereby, within thirty days from the date of publication of draft scheme under clause (e), submit his objection or suggestion, if any, in such manner as may be specified in the said scheme, to the Chairman of the Development Authority, which shall be considered by the Property Valuation Committee and thereafter, the Development Authority shall cause the final publication of the said scheme;
- (g) the base unit area value of land comprising building or any vacant lands and multiplicative factors with values thereof, and the base unit area value and multiplicative factors with values thereof of covered space of building, as determined under this section, shall be final;
- (h) the final value of any covered space or building in any area, shall be the amount arrived at by multiplying the total area of such covered space of building by the final base unit area value of such covered space of building;
- (i) the Development Authority may require the total area of the covered space of building to be certified by an Architect or any Licensed Civil Engineer or Structural Engineer or Building Surveyor enrolled with the Development Authority or by a Valuer holding a diploma from the Institute of Surveyors and enrolled with the Development Authority;
- (j) the annual value of any land comprising building or any vacant land in any area, shall be the amount arrived at by multiplying the total area of such land by the final base unit area value of such land;
- (k) in case of any land comprising building or any vacant land or covered space of building, or any portion thereof is subject to different final base unit area value, the annual value of each such portion shall be computed separately and the sum of such annual value shall be the annual value for such land comprising building or any vacant land or covered space of building, or any portion thereof, as the case may be;
- (l) the final base unit area value of land comprising building or any vacant land and the final base unit area value of covered space of building, shall remain in force for a period of five years from the date of final publication of the scheme if not otherwise directed by the State Government:

Provided that until the revision of such final base unit area value is completed, the existing final base unit area values shall continue to be in force and whenever be revised, such revised value shall take effect from the beginning of the quarter from which it ought to have been enforced;

- (m) if, for any reason, the final base unit area value of any land comprising building or any vacant land, or final base unit area value of any covered space of building, has not been revised on the completion of a period of five years from the date on which such final base unit area values were last determined, it shall be lawful for the Development Authority to increase or decrease the final base unit area values of such land comprising building or any vacant land or any covered space of building with the prior approval of the State Government.

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(2) The annual value as determined under this Chapter shall be rounded off to the nearest ten rupees.

Explanation.—For the purpose of this Act, the expression ‘base unit area value’ means the uniform rate *per* square feet of any land comprising any building and any vacant land or covered space of building, or portion thereof, as the case may be, to be determined under this section.

Annual valuation of land or building belonging to various statutory bodies. 36I. The annual value of any lands or buildings belonging to the State Government or any of the statutory bodies mentioned in clause (a) of sub-section (9) of section 36D, shall be deemed to be five *per centum* of the cost of acquisition thereof, subject to any revision made in this behalf by the State Government on an application by any such body or by the Development Authority.

Explanation.—For the purpose of this section, the cost of acquisition shall mean,—

- (i) in the case of any land or building acquired under the Land Acquisition Act, 1894, or any other law enacted for acquisition of land, the value of such land or building as determined under the Land Acquisition Act, 1894, or any other law enacted for acquisition of land;
- (ii) in the case of any land or building acquired by private treaty, the purchase price of such land or building;
- (iii) in the case of any land or building belonging to the State Government or any of the statutory bodies mentioned in clause (a) of sub-section (9) of section 36D, such amount as may be determined under the provisions of the Act governing such body or of any other law in force for the time being and applicable to such body.

1 of 1894.

Determination of annual valuation of building where land is exempted from property tax. 36J. Where any land is exempted from the property tax under any law in force for the time being, the annual value of any building, erected on such land, which is in existence for more than one year and is not entitled to any exemption from the property tax under this Act or any other law in force for the time being, shall be determined separately from the land in accordance with the provisions of this Chapter.

Development Authority Assessment Code. 36K. (1) The Development Authority may, by the regulations, provide for the detailed procedure for determination of the annual value of lands or buildings.

(2) Without prejudice to the generality of the foregoing provisions,—

- (a) every building together with the site and the land appurtenant thereto shall be assessed as a single unit:

Provided that where portions of any building together with the site and the land appurtenant thereto are vertically divisible and are separately owned so as to be entirely independent and capable of separate enjoyment, notwithstanding the fact that access to such separate portions is made through a common passage or a common staircase, such separately owned portions may be assessed separately:

Provided further that the right of such access is protected by a registered deed of agreement;

- (b) all lands or buildings, to the extent these are contiguous or are within the

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same curtilage or are on the same foundation and are owned by the same owner or co-owners as an undivided property, shall be treated as one unit for the purpose of assessment under this Act:

Provided that if such land or building is sub-divided into separate shares which are not entirely independent and capable of separate enjoyment, the Chairman may, on application from the owner or co-owners, apportion the valuation and assessment among the co-owners according to the value of their respective shares treating the entire land or building as a single unit:

Provided further that where portions of any building together with the site and the land appurtenant thereto are vertically divisible and are separately owned so as to be entirely independent and capable of separate enjoyment, notwithstanding the fact that access to such separate portions is made through a common passage or a common staircase, such separately owned portions may be assessed separately:

Provided also that the right of such access is protected by a registered deed of agreement;

- (c) all land or buildings, to the extent these are contiguous or are within the same curtilage or are on the same foundation and are owned by the same owner or co-owners as an undivided property, shall be treated as one unit for the purpose of assessment under this Act:

Provided that if such land or building is sub-divided into separate shares which are not entirely independent and capable of separate enjoyment, the Chairman may, on application from the owner or co-owners, apportion the valuation and assessment among the co-owners according to the value of their respective shares treating the entire land or building as a single unit;

- (d) each residential unit with its percentage of the undivided interest in the common areas and facilities constructed or purchased and owned by or under the control of any housing co-operative society registered under the West Bengal Co-operative Societies Act, 2006, shall be assessed separately;
- (e) each apartment and its percentage of the undivided interest in the common areas and the facilities in a building within the meaning of the West Bengal Apartment Ownership Act, 1972, a declaration in respect of which has been duly executed and registered under the provisions of that Act, shall be assessed separately.

West Ben. Act
XL of 2006.

West Ben. Act
XVI of 1972.

(3) If the ownership of any land or building or a portion thereof is sub-divided into separate shares or if more than one land or building or portions thereof by amalgamation come under one ownership, the Chairman may, on an application from the owners or co-owners, separate or amalgamate, as the case may be, such land and building or portions thereof so as to ensure conformity with the provisions of this section.

(4) A newly constructed building shall become assessable from the quarter following the date of issue of the occupancy certificate under the provision of this Act:

Provided that if such building is occupied before the issue of the occupancy certificate in contravention of the provisions of this Act, such building shall be liable for assessment from the quarter following the date of its occupation and notwithstanding any other action that may be taken under this Act, such building shall not get the benefit of the rebate in the property tax under sub-section (5) of section 36D.

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(5) The Chairman shall, upon an application made in this behalf by an owner, lessee or sub-lessee or occupier of any land or building and upon payment of such fees as may be determined by the Development Authority by the regulations, furnish information to such person regarding the apportionment of the property tax of such land or building among the several occupiers within such land or building for the current period or the period immediately preceeding:

Provided that nothing in this sub-section shall prevent the Development Authority from recovering the dues from any such person.

D. Assessment

Periodic
assessment.

36L. (1) The annual value of any land or building situated within any area of the New Town, shall remain in force, and shall be deemed to be the annual value for the purpose of assessment of property tax on such land or building under this Act, until a fresh annual valuation is enforced under this Act after final publication of the scheme.

(2) The annual valuation under this Chapter—

- (a) shall be made by the Development Authority immediately after the final publication of the scheme under this Act for the entire area under jurisdiction of the Development Authority or if felt necessary, any part thereof, and shall be enforced throughout the area of the Development Authority or if felt necessary, in any part thereof for the first time;
- (b) shall be made by the Development Authority or if the State Government so directs, by the Central Valuation Board established under the West Bengal Central Valuation Board Act, 1978;
- (c) shall have effect from the beginning of the quarter of a year ending on the 30th June or 30th September or 31st December or 31st March, as the case may be, following that in which a notice under sub-section (2) of section 36Q is issued;
- (d) shall, subject to the other provisions of this Chapter, remain in force in respect of any area of the Development Authority for a period of five years from the date of publication of scheme, irrespective of any alteration during such period in the numbers or boundaries of such area; and
- (e) may be revised on the expiration of each such period.

West Ben. Act
LVII of 1978.

Revision of
assessment.

36 M. (1) Notwithstanding anything contained in section 36L, the Development Authority, subject to the prior approval of the State Government may, by resolution, direct a general revaluation of lands and buildings in any area of the Development Authority or part thereof during the occurrence of any period specified under this Chapter. Such general revaluation shall have effect from the beginning of the quarter following that in which a notice under sub-section (2) of section 36Q is issued and shall remain in force in respect of each area or portion thereof, as the case may be, for the unexpired portion of the period during which, but for such revaluation, the annual valuation would have remained in force.

(2) The Chairman may cause any revision to be made in the annual valuation of any land or building in the following cases:—

- (a) when the nature of occupancy changes; or
- (b) when the nature of its use changes; or
- (c) when a new building is erected or an existing building is redeveloped or substantially altered or improved during the period, the annual valuation remains in force; or

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- (d) when, on an application made in writing by the owner or the person liable to pay its property tax, it is established that during the period of the annual valuation remaining in force its values has been reduced by reason of any substantial demolition or has suffered depreciation from any accident or any calamity proved to the satisfaction of the Chairman to have been beyond the control of such owner or such person; or
- (e) when any land or building or portion thereof, is acquired by purchase or otherwise by the State Government or the Development Authority or any statutory body mentioned in clause (a) of sub-section (9) of section 36D during the period of the annual valuation remaining in force; or
- (f) when any land or building or portion thereof, is sold or otherwise transferred by the State Government or the Development Authority or any statutory body mentioned in clause (a) of sub-section (9) of section 36D:
 Provided that all land for roads and other public purposes shall be excluded from such revaluation; or
- (g) when, upon the acquisition or transfer of any land or building in part, a residual portion remains; or
- (h) when it becomes necessary so to do for any other reason to be recorded in writing.

(3) Any revision in the annual valuation of any land or building or portion thereof under this section, shall come into force from the beginning of the quarter of a year ending on the 30th June or 30th September or 31st December or 31st March, as the case may be, following that in which such revision becomes applicable and shall remain in force for the unexpired portion of the period during which but for such revision such annual valuation would have remained in force.

(4) Notwithstanding anything contained in the sub-section (1) or sub-section (2) or sub-section (3), any land or building,—

- (a) which for any reason has no annual value assigned to it under this Act, may be valued by the Chairman at any time during the currency of the period specified in respect of such land or building under section 36L or sub-section (3) of section 36M, or
- (b) the valuation which has been cancelled on the ground of irregularity, may be valued by the Chairman at any time after such cancellation, and such valuation shall remain in force until a fresh valuation or revision is made and shall take effect from the beginning of the quarter from which the previous valuation which has been cancelled would have taken effect:

Provided that the valuation made under clause (a) or clause (b), shall remain in force for the unexpired portion of the period specified under this Chapter.

Submission of returns and inspection of land and building for purpose of assessment.

36N. (1) The Chairman may, with a view to enabling him to determine the annual value of any land or building in any area or part thereof and the person primarily liable for the payment of any property tax on such land or building, by a public notice, require the owner or the occupier of the land or building or portion thereof to furnish a return in such form, within such period, and in accordance with such procedure, as may be specified by the Development Authority.

(2) The Chairman may, by a public notice, require the owner or the occupier of the land or building or portion thereof in any area used for public cinema shows or theatrical performances or as a place of similar public recreation, amusement or entertainment to furnish the return in such form, within such period, and in accordance with such procedure, as may be specified by the Development Authority.

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(3) Every owner or occupier of any land or building referred to in the public notice under sub-section (1) or sub-section (2), shall be bound to comply with such notice and to furnish a return with a declaration that the statement made therein is correct to the best of his knowledge and belief.

(4) The Chairman or any person subordinate to him and authorized by him in writing in this behalf may, without giving any previous notice to the owner or occupier of any land or building, enter upon, and make an inspection or survey and take measurement of such land or building and verify the statements made in any return for such land or building submitted under this Chapter.

Submission of returns for purpose of revision in the annual valuation of land and building

36O. To enable the Chairman to revise the annual value of any land or building governed by any circumstances specified in sub-section (2) of section 36M, except in respect of a case under clause (d) thereof, the owner or the person liable to pay the property tax for such land or building shall furnish to the Chairman, not later than the 31st day of March of the year immediately following, a return in such form as may be specified by the Development Authority.

Self-assessment and submission of return.

36P. (1) The manner of filing self-assessment and submission of return shall be such as may be specified by the Development Authority.

(2) Such owner or person shall furnish to the Chairman a return of self-assessment in such form, and in such manner, as may be specified by the Development Authority. Every such return shall be accompanied by proof of payment of such property tax and interest, if any.

(3) The payment of such property tax and interest up to the current quarter, if any, shall be made, and such return shall be furnished, within sixty days of the date of final publication of the scheme under section 36H.

(4) In case of any new building for which an occupancy certificate has been granted or which has been taken possession of after the commencement of this Chapter, such payment shall be made, and such return shall be furnished, within thirty days of the expiry of the quarter in which such occupancy certificate is granted or such possession is taken, whichever is earlier.

Explanation.—Occupancy Certificate may be provisional or final and may be for the whole or any part of the building; possession may be of the whole or any part of a building.

(5) Such payment shall continue to be made for each subsequent quarter and the last date of such payment shall be thirty days after the expiry of each such quarter.

(6) After the assessment under section 36L or revision of assessment under section 36M has been made, any amount paid on self-assessment under this section shall be deemed to have been paid on account of the assessment under section 36L or section 36M, as the case may be.

(7) If any owner or other person, liable to pay the property tax under this Act, fails to pay the same together with interest, if any, in accordance with the provisions of this section, he shall, without prejudice to any other consequence to which he may be subjected, be deemed to be a defaulter in respect of the property tax or the interest or both remaining unpaid and all the provisions of this Act applicable to such defaulter shall apply to him accordingly.

(8) After the assessment is finally made under this Act, if the payment on self-assessment is found to be less than that of the amount payable by the assessee, in such case the assessee shall pay up the difference within two months from the date of

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final assessment, failing which recovery shall be made in accordance with the provisions of this Act but, after the final assessment, if it is found that the assessee has paid excess amount, in such case such excess amount shall be adjusted against the actual tax payable by the assessee:

Provided that in any case where the amount of property tax determined in the final assessment is more than the amount of the property tax paid under self-assessment, and the difference in the amount of property tax is, in the opinion of the Development Authority, the result of wilful suppression of facts, the Chairman may levy a penalty not exceeding thirty *per centum* of such difference in the property tax besides the interest thereon:

Provided further that the levy of such penalty shall be in addition to any other punishment provided under this Act:

Provided also that the certifying Architect or Building Surveyor or Civil Engineer or Structural Engineer or Valuer in such cases shall also be liable for same amount of penalty as determined under the second proviso, after giving the person an opportunity of being heard.

Public notice and inspection of assessment list.

36 Q. (1) When a general revaluation under sub-section (1) of section 36M in any area of the Development Authority or part thereof, as the case may be, has been completed, the Development Authority shall cause the respective valuation to be entered in an assessment list in such form, and containing such particulars with respect of each land or building, as may be specified.

(2) When the assessment list has been prepared, the Development Authority shall give public notice thereof and the place where the list or a copy thereof may be inspected and every person claiming to be the owner, lessee, sub-lessee or occupier of any land or building included in the list and any authorized agent of such person, shall be at liberty to inspect the list and to take extracts therefrom free of charge.

(3) The Development Authority shall give public notice of the place, time and date, not less than one month after the preparation of the assessment list as aforesaid, when it will proceed to consider the annual valuations of lands and buildings entered in the assessment list, and in all cases in which any land or building is for the first time assessed, or the annual value of any land or building is increased, it shall also give written notice thereof to the owner or to any lessee, sub-lessee or occupier of such land or building and shall also specify in the notice the place, time and date, not less than one month thereafter, when it will proceed to consider such valuation.

(4) Before making any revision of annual value under sub-section (2) of section 36M and clause (a), clause (b), and clause (c), of section 36R, the Development Authority shall give the owner, lessee, sub-lessee or occupier of any land or building, notice of not less than thirty days that it proposes to make the revisions and consider any objection which may be made by such owner, lessee, sub-lessee or occupier.

Explanation.—A written notice under this section shall be deemed to be duly served if it is sent by post under certificate of posting to the owner or to any lessee, sub-lessee or occupier of any land or building and in such case, the date of the certificate of posting shall be deemed to be the date of service of the notice to the owner or to any lessee, sub-lessee or occupier of any land or building.

Amendment of assessment.

36R. The Development Authority may, at any time,—

- (a) make, *suo motu*, an assessment in any case where a return on the basis of self-assessment has not been filed;
- (b) revise any assessment where the information furnished in the return of self-assessment is found to be incorrect;

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- (c) re-open any assessment at any time where it has been detected that there is wilful suppression of information;
- (d) impose a penalty not exceeding thirty percent of property tax arising from non-filing of a return in time or thirty percent of the difference in property tax arising from giving wrong information or wilful suppression of facts:

Provided that in the case of such determination of valuation, a notice stating the proposed valuation shall be issued to the owner or to any lessee, sub-lessee or occupier of the land or the land comprising building or the buildings, or the portion thereof and such notice shall specify the place, time and date, not less than one month thereafter, when the Development Authority, or the representative will proceed to consider such valuation:

Provided further that no public notice need to be given in such case.

E. Objections

Objections against valuation of assessment.

36S. Any objection to the annual value determined by the Development Authority under sub-section (1) or sub-section (2) of section 36M or clause (a), clause (b) and clause (c) of section 36R, shall be made by the owner or the person liable to pay the property tax, in writing, to the Development Authority and shall state in what respect the annual value is disputed.

Appointment of an officer to hear objections.

36T. (1) The Development Authority shall, with the approval of State Government, appoint an officer on such terms and conditions as the State Government may determine to hear and determine the objections to the annual valuation of lands or buildings entered in the assessment list.

(2) The officer appointed under sub-section (1), shall be paid from the Development Fund such honorarium as the State Government may determine.

(3) The officer, as aforesaid, may make such queries and observations in relation to any entry in the assessment list and call for such records, returns and explanations as he thinks fit.

(4) Every such query and observation shall be promptly taken into consideration by the officer of the Development Authority to whom it may be addressed and shall be returned by him with the necessary records, returns and explanations.

Hearing of objections.

36U. (1) Objections filed under section 36S, shall be entered in a register maintained for the purpose in such manner as may be specified.

(2) On the date, time and place specified under sub-section (3), or sub-section (4), of section 36Q and after giving the person filing the objections an opportunity of being heard, either in person or through an authorized agent, the officer appointed under section 36T, shall determine the objections.

(3) When an objection has been determined, the order in this behalf shall be recorded in the register maintained under sub-section (1) with the date, and a copy of the order shall be supplied within thirty days thereof to the person filing the objection in such form and manner as may be specified.

(4) The procedure of hearing and disposal of objections shall be such as may be specified.

(5) The valuation fixed after determination of objection under this section, shall take effect from the quarter in which such valuation would have taken effect and shall continue to remain in force during the period such valuation would have remained in force, had no objection been filed.

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Appeal before Appellate Authority. 36V. (1) There shall be an Appellate Authority for hearing and disposal of an appeal against an order passed under section 36U.

(2) The Appellate Authority shall consist of a Chairman and such number of other members not exceeding two as the State Government may determine.

(3) The Chairman and the other members shall be appointed by the State Government on such terms and conditions as it may determine and shall be paid from the Development Fund.

(4) The Chairman and the other members shall have such qualifications and experience as the State Government may determine by notification.

(5) Any owner or person liable to the payment of property tax may, if dissatisfied with the determination of objection under section 36U, appeal to the Chairman of the Appellate Authority:

Provided that such appeal shall be presented to the Appellate Authority within forty-five days from the date of service of a copy of the order under section 36U and shall be accompanied by a copy of the said order.

(6) No appeal under this section shall be entertained unless the property tax, including penalty, together with interest on such property tax, if any, in respect of any land or building for the period ending on the date of presentation of the appeal on the valuation determined under section 36H or section 36U has been deposited in the office of the Development Authority and the appeal shall abate unless such property tax, together with interest on such property tax, if any, is continued to be deposited regularly till the appeal is finally disposed of:

Provided that if the provision of this section is not complied with due to misrepresentation or otherwise, any proceedings in the Appellate Authority shall stand *ipso facto void*.

(7) The provision of Part II and Part III of the Limitation Act, 1963, relating to appeal shall apply to every appeal preferred under this section. 36 of 1963.

(8) The procedure for hearing and disposal of appeals as well as realization of fees in connection with appeals shall be such as may be specified.

(9) The decision of the Appellate Authority with regard to valuation or assessment shall be final.

(10) The valuation fixed after disposal of the appeal under this section shall take effect from the quarter in which such valuation would have taken effect and shall continue to remain in force during the period such valuation would have remained in force, had no appeal been filed.

(11) The Development Authority may, within ninety days from the date of passing the order by the Appellate Authority by giving reason in writing, prefer an application before the Appellate Authority under this section, for review of the order passed by the said Appellate Authority.

Final valuation. 36W. Every valuation determined under this Chapter, shall be final.

F. Assessment Book

Assessment Book. 36 X. The Development Authority shall maintain an Assessment Book in such form, and in such manner, as may be specified by the regulations and shall make it available for inspection, free of charge, through electronic media or otherwise:

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Provided that Assessment Book shall not be kept pending for any case for which any objection or appeal has been filed.

Amendment of Assessment Book. 36 Y. (1) Notwithstanding anything contained in section 36W, the Chairman may, at any time, amend the Assessment Book—

- (a) by inserting therein the name of any person whose name ought to be inserted; or
- (b) by inserting therein any land or building previously omitted together with valuation thereof; or
- (c) by striking out the name of any person or any land or building not liable for the payment of property tax thereupon; or
- (d) by increasing or decreasing for adequate reasons the amount of any annual value and of the property tax thereupon; or
- (e) by making or cancelling any entry exempting any land or building from liability to property tax; or
- (f) by altering the assessment on the land or building which has been erroneously valued or assessed through fraud, mistake or accident, in which case such alteration shall take effect from the date of such erroneous valuation or assessment took effect; or
- (g) by inserting or altering an entry in respect of any building erected, re-erected, altered or added to, after the preparation of the Assessment Book, in which case such insertion or alteration shall take effect from the date of such erection, re-erection, alteration or addition was made.

(2) A notice of not less than fifteen days shall be given to the owner or to the lessee, sub-lessee or occupier of the land or building of the place, time and date on which any amendment of the assessment book is intended to be made under this section.

(3) Any person on whom a notice of amendment is served under sub-section (3) may file an objection in writing to the Chairman at least three days before the date fixed in the notice and the provisions of sections 36S to 36W, shall *mutatis mutandis* apply, to such objections.

G. Incidence and payment of property tax on land and building

Incidence and payment of property tax on land and building. 36 Z. (1) The property tax on land and building shall be primarily leviable—

- (a) if the land or building is let, upon the lessor;
- (b) if the land or building is sublet, upon the superior lessor;
- (c) if the land or building is unlet, upon the person to whom the right to let such land or building vests.

(2) The property tax on any land or building, which is the property of the Development Authority and the possession of which has been delivered under any agreement or licensing arrangement, shall be leviable upon the transferee or the licensee, as the case may be.

(3) The liability of the several owners of any land or building constituting a single unit of assessment, which is or purports to be severally owned in parts or flats or rooms, for payment of property tax or any installment thereof payable during the period of such ownership, shall be joint and several:

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Provided that the Chairmen may apportion the amount of property tax on such land or building among the co-owners:

Provided further that in any case where the Chairman is, for reasons to be recorded in writing, satisfied that the owner is not traceable, the occupier of such land or building for the time being, shall be liable for payment of property tax so long as the owner remains untraced and shall be entitled to the rebate, if admissible.

(4) In the case of any land or building or portion thereof which is not self-occupied and where the owner is refrained, by any law, order of the Government or order of a Court, from recovering the property tax due from the occupier or occupiers, such tax shall be recovered from the occupier or occupiers, as the case may be.

Apportionment of liability for property tax on land or building when the premises assessed are let or sublet.

36ZA. (1) If the annual valuation of any land or building exceeds the amount calculated on the basis of the rent of such land or building payable to the person on whom the property tax on such land or building is leviable under section 36Z, such person shall be entitled to receive from his tenant the difference between the amount of the property tax on such land or building and the amount which would be leviable if the property tax on such land or building were calculated on the basis of the rent payable to him.

(2) If the annual valuation of any land or building which is sublet exceeds the amount calculated on the basis of rent of such land or building payable to the tenant by his sub-tenant or to the sub-tenant by the person holding under him, the tenant or the sub-tenant shall be entitled to receive from his sub-tenant or the person holding under him, as the case may be, the difference between any sum recovered under this Act from such tenant or the sub-tenant and the amount of property tax on such land or building which would be leviable if the annual valuation of such land or building were calculated on the basis of rent payable to the tenant by his sub-tenant or the person holding under him.

Recovery of property tax on land and building.

36ZB. (1) On the failure to recover any sum due on account of property tax on any land or building from the person primarily liable therefore under section 36Z, the Chairman shall, notwithstanding anything contained in the West Bengal Premises Tenancy Act, 1997 or any other law for the time being in force, recover from every occupier of such land or building, by attachment of the rent payable by such occupier, a portion of the total sum due which bears, as nearly as may be, the same proportion to that sum as the rent annually payable in respect of the whole of such land or building.

West Ben. Act
XXXVII of 1997.

(2) An occupier from whom any sum is recovered under sub-section (1), shall be entitled to be reimbursed by the person primarily liable for the payment of such sum, and may, in addition to have recourse to other remedies that may be open to him, deduct the amount so recovered from the amount of any rent becoming due from time to time from him to such person.

Payment of property tax on land and building.

36ZC. (1) Save as otherwise provided in this Act, the property tax on any land or building under this Chapter, shall be paid by the person liable for the payment thereof in quarterly installments and for the purposes of this section, each quarter shall be deemed to commence on the first day of April, first day of July, first day of October and first day of January, of a year.

(2) The Chairman shall cause to be presented to the person liable for payment of the property tax, a comprehensive bill in respect of such rate to be paid in quarterly installments, showing separately the amount of the property tax due against each quarter and the date on which the property tax for each quarter is due. Such bill shall be sent by post or by courier agency to the person liable for payment of the property tax, not later than the 31st of May.

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Explanation.—The expression ‘courier agency’ shall mean a commercial concern engaged in door to door transportation of time-sensitive documents, utilizing the service of a person, either directly or indirectly, to carry such documents.

Payment of
property tax in
case of objection
or appeal.

36ZD. If after the disposal of any appeal under section 36V, the valuation decided under section 36H or section 36U is altered, then—

- (a) any sum paid or deposited under section 36V in excess shall be refunded or allowed to be set-off against any present or future demand of the Development Authority under this Act; and
- (b) any deficiency shall be deemed to be an arrear of the property tax and shall be payable and recoverable as such:

Provided that—

- (i) if any premises have, for the purposes of valuation under section 36I or section 36J, been for the first time valued or sub-divided or amalgamated with any other premises and an objection to the valuation thereof has been made under section 36S, the property tax shall, pending the final determination of the objection, be paid on such valuation;
- (ii) if, when such objection has been finally determined, such valuation is reduced, and if the property tax has already been paid thereon, the sum paid in excess shall be refunded or allowed to be set off against any present or future demand of the Development Authority under this Act; and
- (iii) in case of refund, if any, is to be made by the Development Authority to the assesses, such refund amount shall not accrue any interest thereon.

Penalty for not
paying property
tax.

36ZE. When the person liable for payment of property tax fails to pay the amount of quarterly installment of such property tax as is shown in the comprehensive bill presented under sub-section (2) of section 36ZC, such sum, not exceeding fifteen *per centum* of the property tax, as may be determined by the Development Authority by the regulations, shall be recovered from him by way of penalty, in addition to the amount of the property tax.”

Amendment of
section 183.

6. After section 183 of the principal Act, the following section shall be inserted:—

“Recovery of
taxes.

183A. Save as otherwise provided in this Act, any tax levied under this Act may be recovered in accordance with any of the following procedures and in such manner as may be specified:—

- (a) by presenting a bill, or
- (b) by serving a notice demand in such form as may be determined by regulation by the Development Authority, or
- (c) in case of property tax on land and buildings, by the attachment of rent due in respect of the land and buildings, or
- (d) by a certificate under the Bengal Public Demands Recovery Act, 1913.”

Ben. Act III of
1913.

By order of the Governor,

MADHUMATI MITRA,
*Secy. to the Govt. of West Bengal,
Law Department.*

