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Tamil Nadu Bills

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**BILLS INTRODUCED IN THE LEGISLATIVE ASSEMBLY OF THE
STATE OF TAMIL NADU**

Under Rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the State of Tamil Nadu on 9th July, 2018 is published together with Statement of Objects and Reasons for general information:—

L.A. Bill No. 40 of 2018

***A Bill further to amend the Tamil Nadu Town and Country
Planning Act, 1971.***

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-ninth Year of the Republic of India as follows:—

Short title and
commence-
ment.

1. (1) This Act may be called the Tamil Nadu Town and Country Planning (Second Amendment) Act, 2018.

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

Amendment of
section 2.

2. In section 2 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred to as the principal Act),—

Tamil Nadu Act
35 of 1972.

(1) after clause (15), the following clauses shall be inserted, namely:—

“(15-A) “development right certificate” means the certificate to be issued under the signature of the Member-Secretary of the Planning Authorities including digital signature, indicating the floor space index credit in square metres of the built-up area to which the owner or lessee is entitled, the place from where it is generated and the rate of that plot as prescribed in the guideline value issued by the Registration Department for the relevant year;

(15-B) “development rights” means the right to carry out development or to develop land or building or both in the area specified in the development right certificate;”.

(2) after clause (17), the following clause shall be inserted, namely:—

“(17-A) “floor space index” means the quotient obtained by dividing the total covered area (plinth) on all the floors excepting the areas specifically exempted by notification by the plot area, i.e.

$$\text{Floor space index} = \frac{\text{Total covered area on all floors}}{\text{Plot area;”}.$$

(3) after clause (45), the following clause shall be inserted, namely:—

“(45-A) “transfer of development rights” means compensation in the form of additional floor space index or development rights, which shall entitle the owner for construction of additional built-up area, subject to such rules and regulations as the Government or an authority under this Act may prescribe and the floor space index credit shall be issued in such form as may be prescribed.”.

3. After section 35 of the principal Act, the following section shall be inserted, namely:—

Insertion new
section 35-A.

“35-A. Transfer of development rights.— (1) Where any area is required by a planning authority for a public purpose and the owner of any site or land which comprises such area, surrenders it free of cost and hands over possession of the same to the planning authority free from encumbrances, or maintains the land or restricts development on the land as per the requirement of the Government, the planning authority may permit the transfer of development rights in proportion to the land area surrendered or the restrictions placed on developments in the manner prescribed.

(2) The development rights so permitted under sub-section (1) may be utilized either on the remaining portion of the area after the surrender if feasible, or at any other location in the State equivalent in value of land, subject to such conditions as may be prescribed, either by the person surrendering the land or suffering the restriction or any other person to whom the original allottee of the development rights has transferred such rights.”.

4. For sections 36, 37 and 38 of the principal Act, the following section shall be substituted, namely:—

Substitution of
sections 36,
37 and 38.

“36. Compulsory acquisition of land needed for development plan.— Any land required, reserved or designated in a regional plan, master plan, detailed development plan or new town development plan for the development or re-development or improvement of the area within the jurisdiction of a planning authority, as the case may be, shall be deemed to be the land needed for a public purpose within the meaning of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) and may be acquired under the said Act.

37. Power to purchase or acquire lands specified in development plan.— (1) Where after the publication of the notice in the *Tamil Nadu Government Gazette* of preparation of a regional plan, master plan, detailed development plan, new town development plan or for the development or re-development or improvement of the area within the jurisdiction of a planning authority, any land is required, reserved or designated in such plan, the appropriate planning authority may acquire the land,—

(a) by agreement by paying an amount agreed to; or

(b) in lieu of any such amount, by granting the landowner the transfer of development rights against the area of land surrendered free of cost and free from all encumbrances, and also further additional floor space index or transfer of development rights against the development or construction of the amenity on the surrendered land at his cost, in such manner as may be prescribed; or

(c) by making an application to the Government for acquiring such land under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013), and the land (together with the amenity, if any so developed or constructed) so acquired by agreement or by grant of floor space index and additional floor space index in the form of transfer of development rights under this section or under the said Act, as the case may be, shall vest absolutely free from all encumbrances in the appropriate planning authority.

(2) On receipt of an application made under sub-section (1), if the Government are satisfied that the land specified in the application is needed for the public purpose specified therein, they may acquire the said land by following the procedure laid down in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013).

38. Release of land.— If within five years from the date of the publication of the notice in the *Tamil Nadu Government Gazette* under section 26 or section 27—

(a) no acquisition of land as provided in sub-section (2) of section 37 is made in respect of any land reserved, allotted or designated for any purpose specified in a regional plan, master plan, detailed development plan or new town development plan covered by such notice; or

(b) such land is not acquired by agreement, such land shall be deemed to be released from such reservation, allotment or designation:

Provided that the Government may, by notification, extend the period for such time as they may think proper, but such extended period shall, in no case, exceed five years.”.

STATEMENT OF OBJECTS AND REASONS

The Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972) provides for formulation of Regional Plans, Master Plans, New Town Development Plan and Detailed Development Plans for the planned development and use of rural and urban land. Land is a scarce resource. Land is essentially required for creation of public and common assets, particularly, in urban areas, including formation of new roads, widening of existing roads, traffic and transportation and other infrastructure development to ensure sustainable development and to improve the quality of life for the residents in the area. The major portion of land in the State is under private ownership. The process of acquiring land for the above purposes is complicated, costly and time consuming. Transfer of Development Rights is an effective instrument to minimise the time and cost for obtaining the land to enable development of necessary infrastructure for the benefit of the public. Further, unlike a cash payment, Transfer of Development Rights have the potential to appreciate in value with the appreciation of the value of the underlying land. It is a hassle-free mechanism to facilitate the acquisition of land for infrastructure developmental activities. Under the scheme of Transfer of Development Rights, the Government can obtain the land from the private land owners in exchange for development rights which are transferred to the land owner. Transfer of Development Rights involves making available certain amount of additional built up area in lieu of the area relinquished or surrendered by the owner of the land. Transfer of Development Rights effectively allows developers to exceed the permitted Floor Space Index on the land proposed to be developed. The award of Transfer of Development Rights will entitle the owner of the land in the form of a Development Rights Certificate which he may use himself or transfer it to any other person.

(2) In order to give statutory backing to the Transferable Development Rights, the Government have decided to amend the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972) suitably.

(3) The Bill seeks to give effect to the above decision.

O. PANNEERSELVAM,
Deputy Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sections 35-A and 37 proposed to be inserted by clauses 3 and 4 of the Bill empowers the Government to make rules, for the purposes specified therein.

2. The powers delegated are normal and not of an exceptional character.

O. PANNEERSELVAM,
Deputy Chief Minister.

K. SRINIVASAN,
Secretary.