

THE UTTAR PRADESH BOARD FOR DEVELOPMENT OF
MUNICIPAL FINANCIAL RESOURCES ACT, 2011

(U.P Act no. 11 of 2011)

[As passed by the Uttar Pradesh Legislature, assented to by the Governor on March 16, 2011 and published in U.P. Gazette Extraordinary on March 18, 2011]

AN

ACT

to provide for the establishment of the Uttar Pradesh Board for Development of Municipal Financial Resources and the matters connected herewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

**Short title,
extent and
commencement**

1. (1) This Act may be called the Uttar Pradesh Board for Development of Municipal Financial Resources Act, 2011.

(2) It extends to the whole of the State of Uttar Pradesh.

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

Definitions

2. (1) In this Act, unless there is anything repugnant in the subject or context, -

(a) "Board" means the Uttar Pradesh Board for Development of Municipal Financial Resources;

(b) "Chairperson" means the Chairperson of the Board and the Head of the Department thereof;

(c) "Member" means a member of the Board other than *ex-officio* member;

(d) "Municipality" means a Municipal Corporation or Municipal Council or a Nagar Panchayat, constituted under clause (1) of Article 243-Q of the Constitution of India;

(e) "Municipal Act" means the Uttar Pradesh Municipal Corporation Act, 1959, and the Uttar Pradesh Municipalities Act, 1916;

(f) "Property tax" means the property tax on lands and buildings levied under the Municipal Act;

(g) "Regulation" means regulations made under section 37.

(2) Words and expressions used in this Act but not defined shall have the meanings respectively assigned to them in the Municipal Acts.

**Act to override
other laws**

3. With effect from the date of notification referred to in sub-section (1) of section 4, the provisions of the Municipal Acts, or any other law relating to any of the matters provided for in this Act shall be deemed to have been modified to the extent of the provisions of this Act.

CHAPTER-II

ESTABLISHMENT OF THE BOARD

**Establishment
of the Board**

4. (1) The State Government shall, by notification, establish a Board to be called the Uttar Pradesh Board for the Development of Municipal Financial Resources.

(2) The Board shall be a body corporate.

(3) The head office of the Board shall be at Lucknow.

**Composition
of the Board**

5. (1) The Board shall consist of a Chairperson and 4 other Members and the Director Local Bodies Uttar Pradesh shall be *ex-officio* member of the Board.

(2) The Chairperson shall be a person with administrative experience of not less than 25 years and must have held the post of Chief Secretary of the State Government or the Secretary to the Government of India or any other post equivalent thereto having experience of departments related to urban administration.

(3) The Members shall be the persons having special knowledge and experience in the fields of municipal administration, finance and accounts, valuation of urban properties, State Laws including municipal laws or civil engineering or as the State Government may determine, and must have at least 25 years of experience in relevant field and held the post of at least the Secretary to the State Government or equivalent thereto.

(4) The Board shall appoint a Secretary to exercise and perform such duties, under the control of the Chairperson, in such manner as may be specified by regulations.

(5) The Chairperson and the Members of the Board shall hold office for a period of five years from the date he enters upon his office and the terms and conditions of their service, including salaries and allowances, shall be such as may be prescribed :

Provided that the Chairperson or a Member shall not hold office after he has attained the age of sixty five years.

(6) The salary, allowances and other conditions of services of Chairperson and Members shall not be varied to their disadvantage after appointment.

(7) The Chairperson or any Member of the Board shall not hold any other office during the tenure thereof as such.

(8) The Chairperson shall be the Chief Executive Officer of the Board.

(9) Where the Chairperson is unable to discharge his functions owing to absence, illness, death, resignation or any other cause or where any vacancy occurs in the office of the Chairperson, a Member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any Member chosen by Members present from amongst themselves, shall exercise the powers and discharge the duties of the Chairperson.

(10) A person shall be disqualified for appointment as the Chairperson or a Member, if he:-

(a) has been adjudged as insolvent; or

(b) has become physically or mentally incapable of acting;

or

(c) has been convicted and sentenced to imprisonment for any offence involving moral turpitude; or

(d) has acquired such financial or other interest as is likely to affect his functions as the Chairperson or a Member; or

(e) has so abused his position as to render his continuance in the office pre-judicial to the public interest; or

(f) is a Member of Parliament, or any State Legislature or any local authority or is a candidate for election thereto; or

(g) is or has been an active Member of a political party or has held or holds a post therein.

(11) The Chairperson or a Member shall only be removed from his office by the State Government on the grounds of proved misbehavior or on the grounds specified in clause (b), clause (d) or clause (e) of sub-section (10) after a panel of three enquiry officers appointed, from amongst officers equivalent to Chief Secretary to the State Government, for this purpose, on a reference made to them by the State Government, has, on enquiry, held by the panel and in consultation with the leader of opposition of the State Legislative Assembly, reported that the Chairperson or the Member ought to, on any such grounds be removed.

**Appointment
of Chairperson
and Members**

6. (1) The Governor shall, appoint a person, on the advice of the chief Minister, as the Chairperson and the Members of the Board.

(2) The person appointed under sub-section (1) shall, before entering upon the office, make and subscribe before the Governor or any person nominated by him an oath of affirmation in such form as may be prescribed.

(3) The person appointed under sub-section (1) may, by writing under his hand addressed to the Governor, resign his office.

(4) The person appointed under sub-section (1) may be removed from office in such manner as may be prescribed.

**Staff of the
Board**

7. (1) The Board may with the approval of the State Government, create such posts of officers and employees of the Board and make appointments on such post in such manner as may be prescribed.

(2) The terms and conditions of service including salaries and allowances of the staff appointed under sub-section (1) shall be such as may be laid down in the regulations.

(3) For the purposes of carrying out its functions under this Act, the Board may requisition the services of any officer or employee of a municipality.

(4) The staff referred to in sub-section (1) shall be under the administrative and disciplinary control of the Chairperson who shall be the appointing authority thereof.

Organization

8. (1) The Board may be organized into three or more wings *viz* Administrative wing, Valuation wing and Research and Analysis activities wing and such other wings as may be needed.

(2) The Board may establish regional offices in the State with appropriate staff with the prior approval of the State Government.

(3) The Board may reorganize its wings and regional offices from time to time as required to implement the provisions of this Act.

Validation

9. Notwithstanding anything to the contrary contained in any other provision of this Act, no action of the Board shall be invalid or otherwise called in question merely on the ground of the existence of any vacancy or defects in the constitution of the Board.

CHAPTER-III

POWERS, FUNCTIONS AND PROCEDURES OF THE BOARD

**Functions of
the Board**

10. The functions of the Board shall be -

(a) to review the fiscal strength of various municipalities and assess the efficiency of different sources of revenue so as to enhance it and also to create new such sources;

(b) to enumerate, or cause to enumerate, all properties in the municipalities in the State and develop a data-base;

(c) to review the property and water tax and other revenue resource systems and suggest suitable basis for valuation of properties and rates of tax and non tax items of municipalities;

(d) to design and formulate transparent procedure for valuation of properties, inspection for their verification in municipalities;

(e) to undertake valuation or cause valuation of all properties in the Municipalities in the state including central, state or local body properties and exempted properties;

(f) to recommend modalities for periodic revision;

(g) to adjudicate property tax disputes;

(h) to ensure transparency in valuation process and facilitate disclosure of valuations for fair comparison;

(i) to publish the annual work plan in the official *Gazette* of the State Government;

(j) to give such advice on valuation of properties and enhancement of Municipal Revenue to Municipalities, as the State Government may, from time to time, require it to do or on the request of Municipalities by means of resolution ;

(k) to discharge such other functions in the field of user charges, resource generation and valuation therefore including development of expertise in valuation of land and building, as the State Government may, from time to time, require it to do or on the request of municipalities by means of resolution.

**Proceedings of
the Board**

11. The Board shall meet at such time and place within the State as the Chairperson may think fit and shall regulate its own procedure consistent with regulations that may be framed in this behalf.

**Responsibility
of
Municipality**

12. (1) When called upon, by the Board, to furnish any information, return, particulars, records, documents or registers or any other material, the municipality shall furnish the same within the time specified in this regard.

(2) When called upon by the Board, a municipality shall fully cooperate with and assist the Board to perform its functions.

(3) Where a municipality fails, for whatever reason, to comply with any direction under sub-section (1) or sub-section (2) the Board may issue a show cause notice to the municipality for withholding, for a period not exceeding two years, a part of the financial transfers, not exceeding thirty per cent of its annual value during the preceding financial year, to be devolved by the State Government to that municipality. If the municipality still fails to comply with or fails to furnish a satisfactory guarantee in this regard, the Board may recommend such withholding to the State Government, where upon the State Government shall withhold such financial transfers for said period:

Provided that where the municipality, subsequently, complies with direction, the State Government shall release the financial transfers so withheld, on being satisfied with such compliance.

**Obligation to
file statement
and disclose
liability**

13. (1) Every owner or occupant of any land or building shall file a statement before the Board or any Person authorized by it in this behalf, in such manner and within such time, specifying such particulars, as may be prescribed.

(2) The Board may, by general or specific communication, call upon an inhabitant of a municipality to furnish such information and particulars as may be specified, in order to ascertain-

(a) whether such inhabitant is liable to pay a tax imposed or a charge or a fee under this Act or any Municipal Act or rules or regulations made thereunder;

(b) at what amount he should be assessed;

(c) the annual value of the building or land which he occupied and the name and address of the owner;

(d) any other information that may be necessary for carrying out its functions, or levy of the tax, charge or fee.

**Offences and
Penalties**

14. Any person who –

(i) fails to file the statement as required; or

(ii) fails to furnish the information and particulars called upon, shall be guilty of an offence and shall be punishable with fine which may extend to rupees ten thousand and when the offence is a continuing one, with a fine which may extend to rupees five hundred per day.

**Composition
of offences**

15. (1) The Board may accept from a person who has committed or is reasonably suspected of having committed an offence under this Act, a sum of money not exceeding twenty thousand by way of composition fee and compound the offence.

(2) On the composition of any offence, no proceedings shall be taken or continued against the person in respect of such offence, and if any proceeding in respect of that offence have already been inhibited against him, the composition shall have the effect of his acquittal.

**Cognizance of
offences**

16. No court shall take cognizance of any offence under this Act except on a complaint in writing of an officer authorized in this behalf by the Board.

**Determination
of valuation
and its
duration**

17. (1) The State Government shall, from time to time, by notification, specify the municipality where the general valuation of lands and buildings shall be made by the Board, in accordance with the provisions of Municipal Acts or any other law for the time being in force in such municipality, as the case may be, in so far as they relate to determination of annual valuation :

Provided that the Board may cause to be made, subject to such conditions as may be prescribed, the general valuation of lands and buildings in the municipality, as aforesaid, under its superintendence, direction and control on payment of such remuneration as it may determine, and every such valuation shall be deemed to have been made by the Board.

(2) The valuation made by the Board shall become operative with effect from such date, as the State Government may, by notification, appoint in this behalf and shall remain in force in respect of such area for a period of five years and be revised thereafter at the termination of successive period of five years :

Provided that the valuation of land or building in any municipality shall be made in accordance with the provisions of the Municipal Acts.

(3) Notwithstanding anything contained in sub-sections (1) and (2) if, during the currency of any period referred to in sub-section (2) any new building is erected, or any existing building is reconstructed or substantially altered or improved in any area of municipality, the determination of valuation of such premises shall be subject to the same criteria as has been fixed by the Board for such premises, and its valuation shall be covered by such procedure as may be determined by the Board for its immediate valuation with prior mandatory filing of statement of particulars by the owner or occupier.

(4) The Municipality shall and within such time, as may be prescribed, send to the Board list of all new buildings erected and also all existing buildings reconstructed or substantially altered or improved within its jurisdiction.

(5) The mutation of properties shall be made by the municipality as per provisions of Municipal Acts, or rules made thereunder but the information of mutation with concerned record shall be given to the Board by the mutating officer within seven days of mutation.

**Publication of
proposed
valuation list**

18. (1) When the valuation of the land and buildings of any Municipality has been completed by the Board shall cause such valuation list and the amount of property tax or other taxes thereon to be entered in a list.

(2) The Board shall publish the proposed valuation list, prepared under sub-section (1) and shall specify a date within which an application for objection to the proposed valuation list may be filed.

(3) The objections may be filed in such manner as may be prescribed.

**Hearing of
objections on
valuation**

19. After the expiry of the date specified in sub-section (2) of section 18 and within such period thereafter as may be prescribed, the objection of any entry in the proposed valuation list shall be determined after giving the applicant an opportunity of being heard, by such persons as may be authorized in this behalf.

**Publication of
final valuation
list**

20. When the objections, if any, have been disposed off under section 19, the Board shall prepare a final valuation list and shall give public notice of the place or places where such list may be inspected and the valuation together with the amount of property tax thereon as recorded in the final valuation list shall be conclusive and no objection shall be reheard.

**Review of
valuation**

21. Notwithstanding anything contained in section 20, the Board may at any time on an application filed by an owner or occupier or by the municipality or *suo moto*; and after recording the reasons therefore, review any valuation made earlier.

**Powers of the
Board**

22. The Board while performing its functions under this Act, shall have the powers of a civil court trying a suit in respect of the following matters –

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavit;

(d) requisitioning any public record or copy thereof;

(e) issuing commissions for inspection of premises and examination of witness and documents;

(f) such other matters as may be prescribed.

Powers to issue directions

23. The State Government may from time to time issue directions not inconsistent with this Act.

Power of entry and inspection into land or building

24. A person, authorized by the Board in this behalf, may enter into or upon a premises in such manner as may be prescribed, for carrying out the purposes of this Act.

Bar of jurisdiction

25. No order or proceeding made under this Act shall be appealable and no civil court shall have jurisdiction in respect of any matter which the Board is empowered by or under this Act to decide.

CHAPTER-IV

ACCOUNTS, AUDIT AND REPORT

Grants by the State Government to the Board

26. (1) The State Government shall after due appropriation made by the State Legislature by law in this behalf, pay to the Board, by way of grants, such sums of money as the State Government may think fit for being utilized for the purposes of this Act.

(2) The Board may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1) and may also charge fee from municipalities and others towards expenditure of the Board.

Accounts and audit

27. (1) The Board shall maintain proper accounts and other relevant records and shall cause to be prepared an annual statement of accounts in such form as may be prescribed.

(2) Review from sources other than grants under section 26 shall be regulated by regulations made in this behalf.

(3) The accounts of the Board shall be audited by the Accountant General, Uttar Pradesh, or any other officer authorized by him in this behalf at such intervals as may be specified by State Government and any expenditure incurred in connection with such audit shall be payable by the Board to the Accountant General.

(4) Copies of annual statement of accounts of the Board together with the audit report thereon shall be forwarded to the State Government.

(5) A copy of the annual statement of accounts of the Board together with the audit report received by the State Government under sub-section (4) shall be laid before each House of the State Legislature.

Annual Report

28. (1) The Board shall prepare an Annual Report of its activities during the year, in such form as may be prescribed and copies thereof shall be forwarded to the State Government.

(2) The State Government, shall cause the annual report to be laid before each House of the State Legislature.

Recovery of amount due to the Board

29. (1) If the amount due to the Board from a municipality under sub-section (2) of section 26 is not paid within specified time, the Board may refer the matter to the State Government and the State Government may pay the amount to the Board and deduct or pay after deducting the same from any financial transfers payable by the State Government to the municipality.

(2) Without prejudice to sub-section (1), any amount payable to the Board, may, on a certificate of the Secretary of the Board, be recovered as arrears of land revenue.

Expenditure incurred on account of salaries and allowances including contingencies

30. The expenditure incurred by the Board for meeting, the salaries and allowances, including contingencies, of the Chairperson, Members, Secretary, officers and employees serving under or for the Board shall be paid out of the grant to be provided by the State Government.

CHAPTER-V

MISCELLANEOUS

Delegation of Powers and Functions by Board

31. The Board may delegate any of its powers and functions including financial power, by a resolution adopted by it to the Chairperson, Member, Secretary or any officer of the Board except the powers under sections 7, 8 and 37.

Chairperson, Members, officers and employees to be Public Servants

32. The Chairperson, Member, Secretary and other officers and employees of the Board shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code.

Protection of action taken in good faith

33. No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of the provisions of this Act or the rules or the regulation or the orders made thereunder.

Registration of Valuers and Surveyors

34. The Board may register a person as a valuer or surveyor subject to such qualification and terms and conditions, including charges, as may be determined by regulations.

Service of notices etc.

35. All notices and processes required or sought to be issued to or served on the Board shall be served on the Secretary of the Board.

Power to make rules

36. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the forgoing powers the State Government may make rules relating to any matter not inconsistent with the provisions of this Act which is required to be or may be prescribed.

(3) All rules made by the State Government shall be published in the *Gazette*.

Power to make Regulations

37. (1) The Board may, with the prior approval of the State Government, make regulations, consistent with the provisions of this Act, and the rules made thereunder, for carrying out the purposes of this Act.

(2) The State Government may, in according such approval, make such additions, alterations and modifications therein as it thinks fit:

Provided that before making such additions, alterations or modifications the State Government shall give the Board an opportunity to express its views thereon within such period not exceeding two months as may be specified by the State Government.

(3) All regulations made by the Board and approved by the State Government shall be published in the *Gazette*.

**Power to
remove
difficulties**

38. (1) If any difficulty arises in giving effect to the provisions of this Act, by reasons of anything contained in this Act, or any other enactment for the time being in force, the State Government may, as the occasion requires, by order direct that this Act shall, during a period not exceeding twelve months after the date of such order have effect subject to such adaptations, whether by way of modifications, addition or omission, as it may deem to be necessary and expedient :

Provided that no order under sub-section (1) shall be made after the expiration of a period of two years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid before both the Houses of the State Legislature as soon as may be after it is made.

(3) No order made under sub-section (1) shall be called in question in any court on the ground that no difficulty as is referred to in that sub-section existed or was required to be removed.

STATEMENT OF OBJECTS AND REASONS

On the recommendations of the 13th Finance Commission of India it has been decided to make law to provide for establishment and incorporation of the Uttar Pradesh Board for development of municipal Resources consisting of the Chairperson, four other members and one *ex-officio* member. The main functions of the Board shall be,-

(a) to review the fiscal strength of various municipalities and assess the efficiency of different sources of revenue so as to enhance it and also to create new such sources ;

(b) to enumerate, or cause to enumerate, all properties in the municipalities in the State and develop a data base ;

(c) to review the property and water tax and other revenue resource, systems and suggest suitable basis for valuation of properties and rates of tax and non-tax items of municipalities ;

(d) to design and formulate transparent procedure for valuation of properties ;

(e) to adjudicate property tax disputes ;

(f) to ensure transparency in valuation process and facilitate disclosure of valuations for fair comparison.

The Uttar Pradesh Board for Development of Municipal Financial Resources Bill, 2011 is introduced accordingly.