

**KARNATAKA ACT NO. 19 OF 2002**  
**THE BANGALORE DEVELOPMENT AUTHORITY AND CERTAIN**  
**OTHER LAW (AMENDMENT)**  
**ACT, 2002**

**Arrangement of Sections**

**Sections:**

1. Short title and commencement
- X X X
3. Amendment of Mysore Act V of 1945
4. Validation of levy and collection of property tax
5. Repeal and Savings.

**STATEMENT OF OBJECTS AND REASONS**

The Bangalore Development Authority was levying and collecting property Tax on lands and buildings on the strength of a notification issued under section 29 of the Bangalore Development Authority Act, 1976. Levy and collection of tax by the Bangalore Development Authority was challenged before the High Court in Writ Petition No:4394-4410/1988. The Single Judge of the Court held that, -

(a) the Bangalore Development Authority has no power to levy and collect property tax as the Bangalore Development Authority Act has not authorised the Bangalore Development Authority to levy and collect such Tax;

(b) the property tax is service related and as the Bangalore Development Authority has not rendered any service to the property owners it is not legally permissible to levy such Tax, and

(c) the tax collected has to be refunded.

The said order was confirmed in Appeal in Writ Appeal No.223-39/1992 by a Division Bench of the High Court.

In order to remedy the defect and to validate the levy Amendment Act was enacted in 1993 introducing new sections 28A, 28B and 28C along with a validating provision. The said Amendment Act was challenged before the High Court in Writ Petition No.5173/1993 on the ground that it suffered from the vice of excessive delegation and is arbitrary and violative of Article 14 of the constitution. The High Court by its order dated 4.4.97 negated all those contentions. Against that order a Special Leave Petition was filed before the Supreme Court, in Civil Appeal No.7791-1997 by Shri B.Krishna Bhat.

The Supreme Court has upheld the validity of Section-28A to 28C of the Bangalore Development Authority Act, 1976, which were incorporated by 1993

Amendment Act. But it has set-aside Section 7 of the Amendment Act which provided for validation of collection of property tax made by the Bangalore Development Authority prior to the date of amendment on the ground that validation of such collection is impermissible. Further, it has also held that the tax already collected is liable to be refunded.

The decision of the Supreme Court is based on the finding of the High Court of Karnataka that the Bangalore Development Authority is not authorised to levy property Tax since, it is not performing municipal functions. However, the Bangalore Development Authority has been providing most of the Civic Amenities provided by the local authority in the layouts formed by it. In practice, Bangalore Development Authority was discharging municipal functions in respect of its layouts till they were handed over to either Bangalore Mahanagara Palike or the concerned City Municipal Councils.

In the circumstances, apprehensions are that there will be innumerable requests for refund of tax in accordance with the Supreme Court Judgement, which would be impossible for the Bangalore Development Authority to concede to such requests. In order to overcome such a situation, it is considered necessary to amend the Bangalore Development Authority Act, 1976 and the City of Bangalore Improvement Act, 1945 to validate the collection of tax keeping in view the observations of the Apex Court.

Hence the Bill.

(L.A. Bill No. 3 of 2002)

**KARNATAKA ACT NO.19 OF 2002**

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**THE BANGALORE DEVELOPMENT AUTHORITY AND CERTAIN  
OTHER LAW (AMENDMENT)  
ACT, 2002.**

*(Received the assent of the Governor on the Sixth day of September, 2002)*

An Act further to amend the Bangalore Development Authority Act, 1976 and the City of Bangalore Improvement Act, 1945.

Whereas it is expedient further to amend the Bangalore Development Authority Act, 1976 (Karnataka Act 12 of 1976) and the City of Bangalore Improvement Act, 1945 (Mysore Act V of 1945) for the purposes hereinafter appearing;

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

**1. Short title and commencement.-** (1) This Act may be called the Bangalore Development Authority and Certain Other Law (Amendment) Act, 2002.

(2) It shall be deemed to have come into force with effect from the twentieth day of December, 2001.

X X X

**3. Amendment of Mysore Act V of 1945.-** In the City of Bangalore Improvement Act, 1945 (Mysore Act V of 1945),-

(1) after section 20, the following sections shall be and shall be deemed to have been inserted with effect from the date of commencement of that Act, namely:-

**“20A. Duty to maintain streets etc.-** It shall be incumbent on the Board to make reasonable and adequate provision by any means or measures which it is lawfully competent to use or take, for the following matters, namely:-

(a) the maintenance, keeping in repair, lighting and cleaning of the streets formed by the Board till such streets are vested in the Corporation; and

(b) the drainage sanitary arrangement and water supply in respect of the streets formed by the Board.

**20B. Levy of tax on lands and buildings.-** (1) Notwithstanding anything contained in this Act, the Board may levy a tax on lands or buildings or on both, situated within its jurisdiction (hereinafter referred to as the property tax) at the same rates at which such tax is levied by the Corporation within its jurisdiction.

(2) The provisions of the City of Bangalore Municipal Corporation Act, 1949 (Mysore Act 69 of 1949) shall mutatis mutandis apply to the assessment and collection of property tax.

**“Explanation:** For the purpose of this section ‘property tax’ means a tax simpliciter requiring no service at all and not in the nature of fee requiring service.”

**20C. Board is deemed to be a local authority for levy of cesses under certain Acts.-** Notwithstanding anything contained in any law for the time being in force the Board shall be deemed to be a local authority for the purpose of levy and collection of education cess, health cess, library cess, beggary cess or any other cess payable under any law for the time being in force.”

(2) in section 21, in sub-section (1), in clause (i), after the words “functions of the Corporation”, the brackets and words “(including the power to levy, assess and collect property tax)” shall be and shall be deemed to have been inserted with effect from the date of commencement of that Act.

(3) in section 30, in sub-section (2), after clause (a), the following clause shall be and shall be deemed to have been inserted with effect from the date of commencement of that Act, namely:-

“(aa) the property tax levied and collected under section 20B.”

(4) in section 31, in sub-section (1), the following shall be and shall be deemed to have been inserted at the end with effect from the date of commencement of that Act, namely:-

“including the cost of maintaining, keeping in repair, lighting and cleansing of streets and the cost of maintaining drainage and sanitary arrangement and water supply under section 20A.”

**4. Validation of levy and collection of property tax.-** Notwithstanding anything contained in any judgement, decree or order of any Court, Tribunal or other authority to the contrary, levy, assessment or collection of any tax on land or building or on both made or purporting to have been made and any action or thing taken or done (including any notices or orders issued) or assessment made and all proceedings held and any levy and collection of tax or amount purported to have been collected by way of tax in relation to such levy, assessment or collection under the provisions of the Bangalore Development Authority Act, 1976 (Karnataka Act 12 of 1976) and the City of Bangalore Improvement Act, 1945 (Mysore Act V of 1945) before the twenty fourth day of July, 1992 shall be and shall be deemed to be valid and effective as if such levy, assessment or collection or action or thing, had been made, taken or done under the said Acts, as amended by this Act and accordingly:-

(a) all acts, proceedings or things done or any action taken by the Authority or as the case may be, the Board or any of its officer in connection

with the levy, assessment or collection of such tax for all purposes be deemed to be, and to have always been done or taken in accordance with law;

(b) no suit or other proceedings shall be maintained or continued in any Court or Tribunal or before any authority for the refund of any such tax; and

(c) no Court shall enforce any decree or order directing the refund of any such tax.

**5. Repeal and Savings.-** (1) The Bangalore Development Authority and certain other Law (Amendment) Ordinance, 2001 (Karnataka Ordinance 9 of 2001) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Acts as amended by the said ordinance shall be deemed to have been done or taken under the said Acts as amended by this Act.

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