

**L. A. BILL No. XXXVII OF 2021.**

*A BILL*

*further to amend the Maharashtra Stamp Act.*

LX of  
1958. 5 WHEREAS it is expedient further to amend the Maharashtra Stamp Act for the purposes hereinafter appearing; it is hereby enacted in the Seventy-second Year of the Republic of India, as follows:—

1. This Act may be called the Maharashtra Stamp (Amendment) Act, Short title.  
2021.

LX of  
1958. 10 2. In SCHEDULE I appended to the Maharashtra Stamp Act,—  
Amendment of  
SCHEDULE I  
of LX of 1958.

(1) in article 6,—

(a) in clause (1), in sub-clause (b), in column (2),—

(i) for the words “ten lakh rupees” the words “twenty lakh rupees” shall be substituted;

(ii) the following proviso shall be inserted, namely:—

“Provided that, in case of instrument executed in favour of consortium of banks, the duty chargeable shall not exceed fifty lakh rupees.”;

(b) in clause (2), in sub-clause (b), in column (2),—

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(i) for the words “ten lakh rupees” the words “twenty lakh rupees” shall be substituted;

(ii) the following proviso shall be inserted, namely:—

“Provided that, in case of instrument executed in favour of consortium of banks, the duty chargeable shall not exceed fifty lakh rupees.”;

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(2) in article 33, in clause (b), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) if possession is not so given,—

(A) if the amount of further charge secured by such deed does not exceed rupees five lakhs,	0.1 per cent. of the amount of further charge secured by such deed, subject to minimum of one hundred rupees;	15
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(B) in any other case,	0.3 per cent. of the amount of further charge secured by such deed, subject to maximum of twenty lakh rupees.”;	20
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(3) in article 40, in clause (b), in sub-clause (ii), in column (2),—

(i) for the words “ten lakh rupees” the words “twenty lakh rupees” shall be substituted;

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(ii) the following proviso shall be inserted, namely:—

“Provided that, in case of instrument executed in favour of consortium of banks, the duty chargeable shall not exceed fifty lakh rupees.”;

(4) for article 41, the following article shall be substituted, namely :—

“**41. MORTGAGE OF CROP**, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop whether the crop is or is not in existence at the time of mortgage,—

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(i) if the amount secured by such deed does not exceed rupees five lakhs,

0.1 per cent. of the amount secured by such deed, subject to the minimum of one hundred rupees;

5 (ii) in any other case,

0.3 per cent. of the amount secured by such deed, subject to the maximum of twenty lakh rupees.”;

(5) for article 54, the following article shall be substituted, namely :—

10 “54. SECURITY BOND OR MORTGAGE DEED, where such security bond or mortgage deed is executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof, or by a surety to secure the due performance of a contract, or in pursuance of an order of the court or a public officer, not being otherwise provided for by the Maharashtra Court-fees Act,—

25 (i) if the amount secured by such deed does not exceed rupees five lakhs,

0.1 per cent. of the amount secured by such deed, subject to the minimum of one hundred rupees;

30 (ii) in any other case,

0.3 per cent. of the amount secured by such deed, subject to the maximum of twenty lakh rupees:

35 Provided that, where on an instrument executed by a person for whom a person stands surety and executes security bond or a mortgage deed, duty has been paid under article 40, then the duty payable shall be one hundred rupees.”.

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*Exemptions*

Bond or other instrument,  
when executed,—

(a) by any person for the  
purpose of guaranteeing that  
the local income derived from  
private subscriptions to a  
charitable dispensary or  
hospital or any other object  
of public utility shall not be  
less than a specified sum per  
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(b) under the rules made by  
the State Government under  
section 114 of the Maharashtra  
Irrigation Act, 1976 ;

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15 of 1976.

(c) by a person taking advance  
under the Land Improvement  
Loans Act, 1883 or the  
Agriculturists Loans Act, 1884  
or by their sureties as security  
for the repayment of such  
advances ;

XIX of  
1883.  
20 XII of  
1884.

(d) by officers of the Government  
or their sureties to secure the due  
execution of an office or due  
accounting for money or  
other property received by  
virtue thereof.

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## STATEMENT OF OBJECTS AND REASONS

The stamp duty chargeable on the instrument evidencing mortgage by deposit of title deeds chargeable under article 6 of Schedule I appended to the Maharashtra Stamp Act (LX of 1958) was less than the simple mortgage deed chargeable under article 40 of the said Schedule before commencement of the Maharashtra Stamp (Amendment and Validation) Act, 2021 (Mah. III of 2021) (hereinafter referred to as "the said amending Act"). Therefore, by the said amending Act, the stamp duty chargeable on the instruments of mortgage by deposit of title deeds and simple mortgage deed under the said articles 6 and 40, respectively, have been made uniform. To accommodate revenue deficit due to the said amendment, maximum stamp duty limit of rupees ten lakh is specified in the said articles 6 and 40 needs to be increased to rupees twenty lakh.

2. In view of the judgement of the Hon'ble Supreme Court in the case of *Chief Controller Revenue Authority, Gujarat Vs. Coastal Gujarat Power Limited* (Civil Appeal No. 6054 of 2015), section 5 of the said Act have been amended by the said amending Act with a view to levy stamp duty in respect of any instrument comprising or relating to several distinct transactions. Due to this amendment of section 5, in case of instrument of mortgage by consortium of banks, each bank is liable to pay stamp duty in respect of an amount secured by such deed subject to maximum of ten lakh rupees. The Government, therefore, considers it expedient to specify maximum ceiling of stamp duty of rupees fifty lakh in case of instrument related to mortgage executed in favour of consortium of banks so as to support the industrial and commercial sector and to encourage timely payment of stamp duty.

3. The Government also considers it expedient to amend certain ancillary articles to articles 6 and 40 in respect of mortgage such as article 33 (further charge on mortgage property), article 41 (mortgage of crop) and article 54 (security bond or mortgage deed) to harmonize the levy of stamp duty in respect of mortgage under the said Act.

4. The Bill seeks to achieve the above objectives.

Mumbai,

Dated the 20th December, 2021.

BALASAHEB THORAT,

Minister for Revenue.



**FINANCIAL MEMORANDUM**

Clause 2 of the Bill proposes to amend articles 6, 33, 40, 41 and 54 in Schedule I of the Maharashtra Stamp Act (LX of 1958), with a view to harmonize the levy of stamp duty in respect of mortgage under the said Act. There is no provision in the Bill which would involve the recurring or non-recurring expenditure from the Consolidated Fund of the State on its enactment as an Act of the State Legislature.

GOVERNOR'S RECOMMENDATION UNDER ARTICLE 207 OF  
THE CONSTITUTION OF INDIA

(Copy of Government of Maharashtra Order, Law and Judiciary  
Department)

In exercise of the power conferred upon him by clause (1) of Article 207 of the Constitution of India, the Governor of Maharashtra is pleased to recommend to the Maharashtra Legislative Assembly, the Introduction of the Maharashtra Stamp (Amendment) Bill, 2021.



ANNEXURE TO THE L.A. BILL No. XXXVII OF 2021 - THE  
MAHARASHTRA STAMP (AMENDMENT) BILL, 2021.

( Extracts from the Maharashtra Stamp Act, 1958 )

( Mah. LX of 1958. )

1. to 76 \* \* \* \*

SCHEDULE I

STAMP DUTY ON INSTRUMENTS

(See Section 3)

Description of Instrument	proper Stamp Duty.
(1)	(2)
<b>Article 1. to 5</b> * * * *	
<b>Article 6.</b> AGREEMENT RELATING TO DEPOSIT OF THE TITLE DEEDS, PAWN, PLEDGE, OR HYPOTHECATION, that is to say, any instrument evidencing an agreement relating to—	
(1) The deposit of title deeds or instrument constituting or being evidence of the title to any property whatever (other than a marketable security), where such deposit has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt;	
(a) if the amount secured by such deed does not exceed rupees five lakhs;	0.1 per cent. of the amount secured by such deed subject to minimum of one hundred rupees.
(b) in any other case	0.3 per cent. of the amount secured by such deed subject to the maximum of ten lakh rupees.
(2) The pawn, pledge, or hypothecation of movable property, where such pawn, pledge or hypothecation has been made by way of security for their repayment of money advanced or to be advanced by way of loan or an existing or future debt,	

(a) if the amount secured by such deed does not exceed rupees Five lakhs; 0.1 per cent. of the amount secured by such deed subject to minimum of one hundred rupees.

(b) in any other case 0.3 per cent. of the amount secured by such deed subject to the maximum of ten lakh rupees.

*Explanation I.*—For the purposes of clause (1) of this Article, notwithstanding anything contained in any judgement, decree or order of any court or order of any authority, any letter, note, memorandum or writing relating to the deposit of title deeds whether written or made either before or at the time when or after the deposit of title deeds is effected, and whether it is in respect of the security for the first loan or any additional loan or loans taken subsequently, such letter, note, memorandum or writing shall, in the absence of any separate agreement or memorandum of agreement relating to deposit of such title deeds, be deemed to be an instrument evidencing an agreement relating to the deposit of title deeds.

*Explanation II.*—For the purposes of this Article, any new instrument executed for additional loan or extension of previous loan shall be treated as a fresh instrument and chargeable with the duty to the extent of additional amount being secured or disbursed or sanctioned.

(3) \* \* \* \*

**Article 7. to 32.** \* \* \* \*

**Article 33. FURTHER CHARGE—**  
Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—

(a) \* \* \* \*

(b) when such mortgage is one of the description referred to clause (b) of Article 40 (that is, without possession)—

(i) \* \* \* \*

(ii) if possession is not so given. One thousand rupees for every five hundred or part thereof for the amount of further charge secured by such instrument subject to minimum of the one hundred rupees and the maximum of ten lakh rupees.

**Article 34. to 39.** \* \* \* \*

**Article 40.** MORTGAGE-DEED, not being an agreement relating to [Deposit of Title Deeds, Pawn or Pledge or Hypothication (Article 6)], Bottomry Bond (Article 14), Mortgage of a Crop (Article 41), Respondentia Bond (Article 53), or Security Bond of Mortgage Deed (Article 54)—

(a) \* \* \* \*

(b) when possession is not given or agreed to be given as aforesaid, 0.1 per cent. of the amount secured by such deed subject to minimum of one hundred rupees.

(i) if the amount secured by such deed does not exceed rupees five lakhs, 0.3 per cent. of the amount secured by such deed subject to the maximum of ten lakh rupees.

(ii) in any other cases,

*Explanation I.*—A mortgagor who gives to the mortgagee a power of attorney to collect rents, or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article.

*Explanation II.*—Where in the case of an agreement to mortgage the amount or part thereof sought to be secured by such an agreement is advanced or disbursed to the mortgagor without execution of a mortgage-deed, then

such an agreement to mortgage shall, notwithstanding anything contained in clause (d) of section 2, become chargeable under this Article as mortgage-deed on the date of making of such advance or disbursement either in part or in whole.

(c) \* \* \* \*

**41. MORTGAGE OF CROP, One rupee.** including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop whether the crop is or is not in existence at the time of mortgage, for every rupees 200 or part thereof.

**Article 42. to 53.** \* \* \* \*

**Article 54. SECURITY BOND OR MORTGAGE DEED,** where such security bond or mortgage deed is executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof, or by a surety to secure the due performance of a contract, or in pursuance of an order of the court or a public officer, not being otherwise provided for by the Maharashtra Court- fees Act. 0.5 per cent. for the amount secured by such deed subject to the maximum of ten lakh rupees : Provided that, where on an instrument executed by a person for whom a person stands surety and executes security bond or a mortgage deed, duty has been paid under article 40, then the duty payable shall be one hundred rupees.

### **Exemptions**

Bond or other instrument, when executed,—

(a) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem ;

(b) under the rules made by the State Government under section 114 of the Maharashtra Irrigation Act, 1976 ;

(c) by a person taking advance under the Land Improvement Loans Act, 1883 or the Agriculturists Loans Act, 1884 or by their sureties as security for the repayment of such advances ;

(d) by officers of the Government or their sureties to secure the due execution of an office or due accounting for money or other property received by virtue thereof.

<b>Article 55. to 62.</b>	*	*	*	*
SCHEDULES II.	*	*	*	*

**MAHARASHTRA LEGISLATURE  
SECRETARIAT**

**[L. A. BILL No. XXXVII OF 2021.]**

**[A Bill further to amend The  
Maharashtra Stamp Act.]**

**[ SHRI BALASAHEB THORAT,  
Minister for Revenue.]**

**RAJENDRA BHAGWAT,  
Principal Secretary,  
Maharashtra Legislative Assembly.**