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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

## PART IV

Acts of Gujarat Legislature and Ordinances promulgated and  
Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the President on the 1<sup>st</sup> January, 2010, is hereby published for general information.

H. D. VYAS,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

### GUJARAT ACT NO. 1 OF 2010.

(First published, after having received the assent of the President, in the "Gujarat Government Gazette," on the 21<sup>st</sup> January, 2010).

### AN ACT

further to amend the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1991.

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

1. This Act may be called the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas (Amendment) Act, 2009.

Short title.

Amendment of section 4 of Guj. 12 of 1991.

2. In the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1991 (hereinafter referred to as "the principal Act"), in section 4, in the *Explanation*, for the words "taken or retained", the words "taken or retained under an agreement to sell or under the power of attorney or" shall be substituted.

Guj. 12 of 1991.

Insertion of new section 5A in Guj. 12 of 1991.

3. In the principal Act, after section 5, the following section shall be inserted, namely:-

Obligations of transferor and transferee who have received advantage under null and void transfers.

"5A. (1) (a) Where a transfer of immovable property is null and void under sub-section (1) of section 4 and no declaration is made in respect of such transfer under sub-clause (ii) of clause (b) of sub-section (2) of section 4, or

(b) where a transfer of immovable property is null and void under sub-section (2) of section 5,

the transferor who has received any consideration for such transfer shall return the consideration to the transferee-

(i) where such transfer is made before the date of the commencement of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas (Amendment) Act, 2009, within six months from the date of such commencement, and

Guj. 1 of 2009.

(ii) where such transfer is made after the date of such commencement, within six months from the date of such transfer;

(c) the transferee or any other person on behalf of such transferee (hereinafter in this section referred to as the 'agent') has possession of such immovable property shall restore the property to the transferor within the said period of six months;

(d) the transferee shall not make any improvement in the property and the Collector may by an order restrain the transferee to make any improvement in the property.

(2) (a) Where a transferor fails to return the consideration to the transferee within the said period of six months, or

(b) where a transferee or his agent fails to restore possession of the immovable property to the transferor within the said period of six months,

the transferee in the case of (a) and the transferor in the case of (b) may make an application in such form and within such period as may be prescribed, to the Collector for making an order directing the transferor to return the consideration to the transferee or, as the case may be, directing the transferee or his agent to restore possession of the immovable property to the transferor.

(3) The Collector, may at any time *suo motu* or on an application made to him under sub-section (2), shall, after making a formal inquiry in the manner prescribed by the Bombay Land Revenue Code, 1879 and after giving the transferor and the transferee or, as the case may be, his agent an opportunity of being heard and after considering any evidence which may be produced, make an order in writing directing the transferor to return such consideration to the transferee within such time as may be specified in the order or, as the case may be, an order in writing directing the transferee or his agent to restore the possession of the immovable property to the transferor within such time as may be specified in the order or make such other order as he deems fit.

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1879.

(4) (a) where the transferor fails to return the consideration to the transferee within the time specified in the order made under sub-section (3), the Collector may recover the consideration from the transferor as an arrears of land revenue and pay the same to the transferee after deducting the expenses for such recovery,

(b) where the transferee or his agent fails to restore possession of the immovable property within the time specified in the order made under sub-section (3), the Collector may, notwithstanding anything to the contrary contained in any law for the time being in force, evict the transferee or his agent from the immovable property and take possession of such property and may, for such purpose, use or cause to be used such force as may be necessary, and restore the possession of such property to the transferor.

(5) Where a transferor fails to take the possession of such property, the property shall temporarily be in the custody of the Collector and the Collector may take such measures as he considers necessary or expedient for securing and managing such property subject to the provisions of rules made in this behalf."

4. In the principal Act, in section 6, after the words and figure "of section 5", the words, brackets, figures and letter "or by an order made under sub-section (3) of section 5A" shall be inserted.

Amendment of  
section 6 of Guj.  
12 of 1991.

Insertion of new sections 9A and 9B in Guj. 12 of 1991.

5. In the principal Act, after section 9, the following sections shall be inserted, namely:-

Penalty for contravention of provisions of section 4, 5 or 5A.

“9A. Whoever contravenes the provisions of section 4, 5 or 5A shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine not exceeding ten thousand rupees or with both.

Cognizable offence.

9B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence punishable under section 9A shall be cognizable.”

2 of 1974.

Amendment of section 11 of Guj. 12 of 1991.

6. In the principal Act, in section 11, for the words and figures “section 4 or 5”, the words and figures “section 4, 5 or 5A” shall be substituted.

Amendment of section 12 of Guj. 12 of 1991.

7. In the principal Act, in section 12, in sub-section (2), after clause (b), the following clause shall be inserted, namely:-

“(bb) the period within which and the form in which an application may be made under sub-section (2) and the rules subject to which the Collector shall secure and manage the property under sub-section (5) of section 5A;”.