

**Fourteenth Kerala Legislative Assembly**

**Bill No. 274**

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**THE KERALA CO-OPERATIVE SOCIETIES  
(AMENDMENT) BILL, 2021**

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*BILL*

*further to amend the Kerala Co-operative Societies Act, 1969.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala Co-operative Societies Act, 1969 (21 of 1969), for the purposes hereinafter appearing;

BE it enacted in the Seventy First year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Co-operative Societies (Amendment) Act, 2021.

(2) Section 2 and clause (i) of section 3 shall be deemed to have come into force on the 15<sup>th</sup> January, 2020 and clause (ii) of section 3 shall be deemed to have come into force on the 11<sup>th</sup> day of April, 2020.

2. *Amendment of section 2.*—In section 2 of the Kerala Co-operative Societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act),—

(i) for clause (ia) the following clause shall be substituted, namely:—

“(ia) “District Co-operative Bank” means a central society having jurisdiction over one revenue district and having Primary Agricultural Credit Societies and Urban Co-operative Banks as its members and the principal object of which is to raise funds to be lent to its members, including nominal or associate members, which existed under this Act immediately before the passing of the orders by the Registrar under sub-section (1) or sub-section (1)(a) of section 74H and has ceased to exist by virtue of such orders:

Provided that if the general body of a District Co-operative Bank has not passed the resolution under section 14A, it shall continue as such for a period of

two years from the date of commencement of the Kerala Co-operative Societies (Amendment) Act, 2021 or till the Registrar completes the process under clauses (a), (b) and (c) of sub-section (1) of section 74H whichever is earlier.”.

3. *Amendment of section 74H.* —In section 74H of the principal Act,—

(i) in sub-section (1) the following clauses shall be added at the end, namely: —

“(a) if the general body of a District Co-operative Bank has not passed the resolution under section 14A, the Registrar may, after consulting Reserve Bank of India, order merger of such District Co-operative Bank with the Kerala State Co-operative Bank on public interest. No order shall be passed under this clause unless,—

(i) a copy of the proposed order of merger has been sent to the member society or member societies concerned by registered post and published the same in two vernacular dailies having wide circulation in the district in which the society situates, for their objections or suggestions;

(ii) the Registrar consider the objections/suggestions, if any, received from the society or societies concerned or from any member or creditor of such society or societies within such period, being not less than fifteen days from the date of posting of the proposed order of merger, as may be specified by the Registrar in this behalf;

(b) the Registrar may after considering the objections/ suggestions referred to in sub-clause (ii) of clause (a), make such modifications, in the proposed order as he may deem fit and the order shall contain such incidental, consequential and supplemental provisions as the Registrar may deem necessary, to give effect to the same;

(c) a member or creditor who has objected the proposed order under clause (b) shall have the option of withdrawing his share and/or deposits or close loans, as the case may be, on application, which shall be made to the society, to which its share, deposit or outstanding loan stands allocated, within a period of thirty days from such order;

(d) on merger all other relevant provisions in this chapter shall apply *mutatis mutandis* to the entities merged under clause (a).”.

(ii) after sub-section (1) following sub-section shall be inserted, namely:—

“(1A) On and from the date of passing of the order of merger by the Registrar under sub-section (1)(a) of section 74H, all the assets and liabilities of the District Co-operative Bank, as it stood immediately before the order of merger shall, without any further act, instrument or deed, stand transferred to and vested in the Kerala State Co-operative Bank.”.

4. *Repeal and saving.*—(1) The Kerala Co-operative Societies (Second Amendment) Ordinance, 2020 (58 of 2020) is hereby repealed.

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

#### STATEMENT OF OBJECTS AND REASONS

As per section 14 of the Kerala Co-operative Societies Act, 1969 two third majority of the members of the society is required for amalgamation and transfer of assets and liabilities of two or more Co-operative Societies. As far as District Co-operative Banks are concerned this creates difficulty in complying with the transfer of assets and liabilities. Hence the Act was amended incorporating a new section 14A, to relax the condition of two third majority as simple majority in the case of merger of District Co-operative Banks along with provisions for protecting the interests of its members, creditors and depositors, as per Kerala Co-operative Societies (Amendment) Act (Act 1 of 2019) . In pursuance to the provisions of the said Act, out of 14 District Co-operative Banks, 13 have passed resolution in favour of amalgamation with the State Co-operative Bank, but one District Co-operative Bank, i.e., Malappuram District Co-operative Bank has not adopted the scheme of amalgamation as suggested by the Registrar.

2. The spirit behind the amalgamation of District Co-operative Banks with the State Co-operative Bank is that, on the existence of two higher tiers viz., KSCB at apex level and DCBs at middle level adds to the cost on interest without offering any significant benefit to the lowest tier, viz., Primary Agricultural Co-operative Societies (PACs). De-layering of one tier will help in unlocking these funds which can be put to more productive uses.

3. As per the provisions of the Kerala Co-operative Societies (Amendment) Act, 2019 (1 of 2019) the District Co-operative Banks will cease to exist, and the members of the said banks i.e., primary co-operative societies will become the members of the Kerala State Co-operative Bank. There is no provision in the Kerala Co-operative Societies Act, 1969 or any other law to control and regulate the functioning of the District Co-operative Bank which has not adopted the scheme of amalgamation. Moreover, the majority of the funds of the DCB are the contributions of PACs and PACs became the members of the SCB, the DCB has no existence and if the PACs withdraw their deposits from DCB, the existence of DCB itself also will be under challenge.

4. In the above circumstance, Government have decided to merge the District Co-operative Bank which has not passed resolution in favour of amalgamation, with the Kerala State Co-operative Bank by adopting a reasonable method by providing opportunities to its members, depositors and creditors, by an order of the Registrar in consultation with the Reserve Bank of India. As the Legislative assembly of the State of Kerala was not in session and the said proposal had to be given effect immediately, the Kerala Co-operative Societies (Amendment) Ordinance, 2020 was promulgated by the Hon'ble Governor on 14<sup>th</sup> January, 2020 and the same was published as Ordinance No.6 of 2020. As per the provisions of this Ordinance, the Registrar had to complete the process within a period of 30 days from the date of commencement of the Ordinance.

5. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in and passed by the Kerala Legislative Assembly during its session which commenced on the 29<sup>th</sup> day of January, 2020 and ended on the 12<sup>th</sup> day of February, 2020, the Kerala Co-operative Societies (Amendment) Ordinance, 2020 was promulgated by the Hon'ble Governor and published as Ordinance No.16 of 2020.

6. As a Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in and passed by the Kerala Legislative Assembly during its session which commenced on the 2<sup>nd</sup> March, 2020 and ended on the 13<sup>th</sup> day of March 2020, the Kerala Co-operative Societies (Amendment) Ordinance, 2020 was promulgated by the Hon'ble Governor on 1<sup>st</sup> April, 2020 and was published as Ordinance No.20 of 2020.

7. The Hon'ble High Court of Kerala in its interim order, passed in certain Writ Petitions, directed the Reserve Bank of India not to proceed further as per the provisions of the Ordinance. In addition to the same, the recent scenario of lockdown introduced throughout the country, also affected the completion of merging process. Hence the merging process could not be completed within a period of 3 months from the date of commencement of the Ordinance. Hence Government decided to extend the time for completing the merging process.

8. As the Legislative Assembly of the State of Kerala was not in session and as the said proposal had to be given effect immediately the Kerala Co-operative Societies (Second Amendment) Ordinance, 2020 was promulgated by the Hon'ble Governor on the 9<sup>th</sup> day of April, 2020 and was published as Ordinance No.27 of 2020.

9. As a Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in and passed by the Kerala Legislative Assembly during its session which commenced on the 24<sup>th</sup> day of August, 2020 and ended on the same day and in order to keep alive the provisions of the Ordinance, Kerala Co-operative Societies (Second Amendment) Ordinance, 2020 was promulgated by the Governor of Kerala and was published as Ordinance No.58 of 2020.

The Bill seeks to replace the said Ordinance No.58 of 2020, with slight modification by an Act of the State Legislature.

#### FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

Sub-section (1)(a) of section 74H proposed to be inserted in the principal Act by clause 3 of the Bill seeks to empower the Registrar to issue order of merger.

The matter in respect of which notifications or orders may be issued or rules may be made are matter of procedure and are of routine and administrative in nature. Further, the rules to be made are subject to the scrutiny of the Legislative Assembly. The delegation of Legislative power is therefore, of a normal character.

**KADAKAMPALLY SURENDRAN**



