

THE REAL ESTATE (REGULATION AND DEVELOPMENT) BILL, 2016

BY

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COST ACCOUNTANTS**

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TRAINER – INCOME TAX DEPARTMENT, EXCISE OFFICERS OF VARIOUS
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WHY REAL ESTATE BILL?

- Timely delivery of flats.
- Furnishing of accurate details.
- Specifying carpet area.
- All clearance are mandatory before begining a project.
- Each project should have a separate bank account.
- After sale service.

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DISADVANTAGES OF THE BILL

- Past real estate projects not included in the bill.
- Delay from Govt. agencies: There can be delays caused by the government, which sometimes takes a lot of time to clear a project. It is up to government bodies to follow strict time frames to approve projects, so that developers can launch, complete and deliver them on time.
- No compulsory regulation for project less than 500 sq. mt.
 - ✓ 5381.96 sq. ft.
 - ✓ 597.99 sq. yards

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REGISTRATION

Prior registration of real estate projects with Real Estate Regulatory Authority is mandatory.

Project to start

- No Advertisement
- No Market, Sell or offer for sale.
- No invitation to purchase to anyone in any manner of any real estate project or part of it.

Project in Process

- The projects which are ongoing on the date of commencement of this act. and for which completion certificate has not been issued the promoter has to make an application to the Authority.
- Within 3 months from the commencement of this act.

Registration by Authority

- If authority thinks necessary in the interest of the allottees, the authority can direct to the promoters of such project to register with the authority.

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REGISTRATION NOT REQUIRED

- Area of land proposed to be developed does not exceeds 500sq. meters or the number of apartments to be developed does not exceeds 8 inclusive of **all phases**.
- Where promoters has received completion certificate for a real estate projects prior to commencement of this act.
- For the purpose of renovation or repair or re-development which does not involve:
 - ✓ Marketing
 - ✓ Advertisement
 - ✓ Selling or allotment of:
 - Any Apartment
 - Plot
 - Building

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REGISTRATION UNDER PHASES

Where the real estate project is to be developed in phases, every such phase shall be considered a stand alone real estate project and the promoters shall obtain registration under this Act. for each phase separately.

Developer X Planning to developed one project in 20 acre of land with three sizes of flats 1375sq. Ft, 1550sq.ft. and 1700sq.ft.

In the first phase company has decided to built the flats of 1375 sq. ft. and after one year of launching this the flats of 1550sq.ft and two years the flats of sizes 1700sq. ft. will be built up.

Conclusion: Promoter has to take every phase as a single project and register each size of flats.

Project 1 = 1375sq.ft.

Project 2 = 1550sq.ft.

Project 1 = 1700sq.ft.

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DOCUMENTS REQUIRED FOR REGISTRATION

Brief details of enterprises including:

- ✓ Name
- ✓ Registered address
- ✓ Type of enterprises: Proprietorship, partnership, company etc.
- ✓ Particulars of registration
- ✓ Names and photographs of promoters

Brief details of the project launched by him in the past five years:

- ✓ Already completed of being developed
- ✓ Current status of the projects in process
- ✓ Any delay in the completion
- ✓ Details of cases pending
- ✓ Type of land
- ✓ Details of payment pending

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DOCUMENTS REQUIRED FOR REGISTRATION

- Authenticated copy of the approvals
- Commencement certificate from the competent authority.
- If project is proposed to be developed in phases, approvals and commencement certificate from the authority for each phases.
- Sanctioned plan, layout plan, and specification of the proposed projects or the phases and whole project must be sanctioned by the competent authority.
- The plan of development works to be executed in the proposed project and the proposed facilities to be provided.
 - ✓ Fire fighting facilities
 - ✓ Drinking water facilities
 - ✓ Emergency evacuation services
 - ✓ Renewable energy
- The location details of the project with clear demarcation of land along with its boundaries.

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DOCUMENTS REQUIRED FOR REGISTRATION

- Performa of the:
 - ✓ Allotment letter
 - ✓ Agreement for sale
 - ✓ Conveyance deed
- Area Details:
 - ✓ Numbers, type and the carpet area of the apartment
 - ✓ Area of the exclusive balcony
 - ✓ Verandah areas
 - ✓ Open terrace area
- Other Details
 - ✓ The number and area of the garage for sale in the project.
 - ✓ Name and address of the real estate agent.
 - ✓ The name and address of the contractors, architect, structural engineers or any other person concerned with development of the proposed project.
- Declaration supported by an affidavit, which shall be signed by the promoters or any person authorized by the promoter.

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EXPENSE OF THE PROJECT

- Promoters shall withdraw the amounts from the separate account maintained by the company to cover the cost of the project in proportion to percentage of completion of the project.
- Proportion to the percentage of completion of the project must be certified by the:
 - ✓ An engineer
 - ✓ An architect and
 - ✓ CA
- Promoter shall get his accounts audited within six months after the end of every financial year by a CA in practice.

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GRANT OF REGISTRATION

- On receipt of the application, the authority shall grant the registration within a period of **30 days**.
- On registration the authority shall provide:
 - ✓ Registration number
 - ✓ Login id and password for accessing the website of the authority to fill the details of the proposed project.
- If authority fails to grant the registration within time the project shall be deemed to be registered and authority shall provide the registration no. **within 7 days** of expiry of said 30days.

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VALIDITY OF THE REGISTRATION

The Registration shall be valid for a period declared by the promoters for completion of the project.

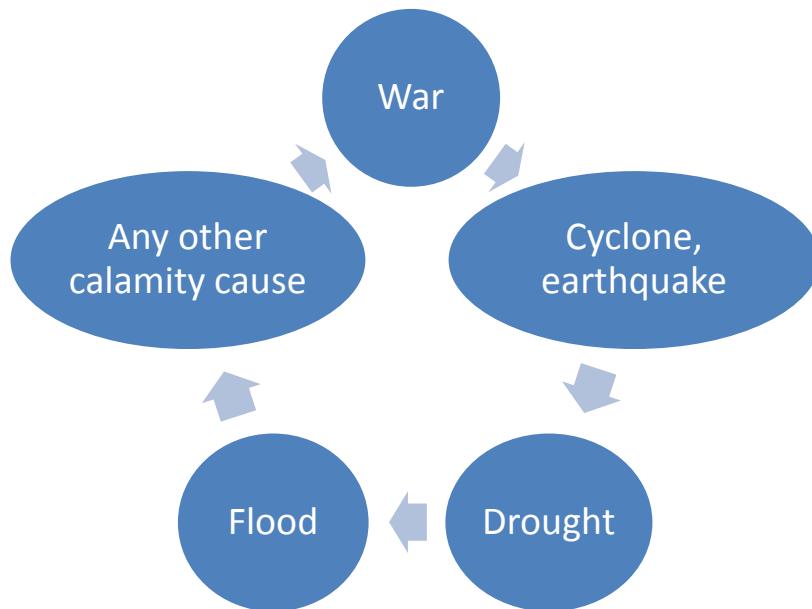
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EXTENSION OF REGISTRATION

Registration granted may be extended in case of application made by promoter due to force majeure.

force majeure means:



Period of extension: In aggregate not exceed a period of **one year** .

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REVOCATION OF REGISTRATION

Authority can revoke the registration in case of the following:

- The promoters make default in doing anything required by Act, rules and regulations.
- The promoters violates any of the term and conditions.
- The promoters involved in any kind of **unfair trade practice or irregularities.**
- The promoters indulges in fraudulent activities.

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UNFAIR TRADE PRACTISE BY PROMOTERS

- The practice of making any statement, whether in writing or in visible form.
 - ✓ False representation that services are of a particular standard or grade.
 - ✓ Represent that promoters have approval which does not have.
 - ✓ Makes a false or misleading representation concerning the services.
- Any advertisement of services which are not intended to be offered.

Note: the registration shall be revoke only after giving notice to the promoters of not less than 30 days.

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CONSEQUENCES OF REVOCATION OF REGISTRATION

- Debar the promoters from accessing its website in relation to the project.
- Specify its name in the defaulter.
- Display his photograph in its website.
- Inform to all Real Estate Regulatory Authority in other states and union territories about such revocation.
- Shall facilitate the remaining development works to be carried out by the competent authority or by association of allottees.
- Bank will hold the project bank account and authority may direct to bank to freeze or de-freeze the account accordingly.

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REGISTRATION OF REAL ESTATE AGENT/CHANNEL PARTNERS

- ❑ Every real estate agent has to be registered with the authority to facilitate the sale or purchase on behalf of any person of any plot, apartment or building of the project.
- ❑ Authority will grant registration to the REA for the entire state of Union territory.

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FUNCTIONS OF REAL ESTATE AGENTS

- ❑ Not facilitate the sale or purchase of the project which is not registered with the authority.
- ❑ Maintain all the records and documents.
- ❑ Not involve in any unfair trade practice.
- ❑ Possession of all the information and documents as the allottees is entitled to.
- ❑ Discharge all other functions as may be required or prescribed.

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FUNCTION AND DUTIES OF PROMOTERS

- Promoter has to create webpage on the website of authority to enter all the details of the proposed project for public viewing.
 - ✓ Details of the registration granted
 - ✓ Quarterly up to date the list of number and types of apartment or plots as the case may be booked.
 - ✓ Quarterly up to date the list of number of garages booked.
 - ✓ Quarterly up to date the list of approvals taken and pending approvals.
 - ✓ Quarterly up to date the status of the project.
- Promoter has to mention the website address of the authority in all the advertisement or prospectus where details of the projects are given.
- At the time of booking and issue of allotment letter the promoter has to make available the following information before the allottees.
 - ✓ Sanctioned plan, layout plan and other specification.
 - ✓ The stage wise time schedule of completion of the project.

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RESPONSIBILITY OF PROMOTERS

- Promoters are responsible for all structural defects for specified period under the Act.
- Responsible to obtain completion or occupancy certificate and make available to individually or association of allottees.
- In case of leasehold land, the promoter is responsible to obtain lease certificate and specify the lease period and certify that all the charges in this regard has been paid.
- Responsible for all the maintenance till the formation and taking charge of association of allottees.
- Enable the formation of association of allottees.
- Execute a registered conveyance deed of the apartment in favour of the allottees.
- Pay all outgoing until he transfers the physical possession of the real estate project to the allottees.
- After promoters executes an agreement for sale than he can not mortgage or create a charge on such projects.

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OBLIGATION OF THE PROMOTER REGARDING ACCURACY OF THE ADVERTISEMENT OR PROSPECTUS

If any person makes any payment on the basis of advertisement or prospectus and suffer any loss or damage because of false statement, the person shall be compensated by the promoters along with interest as per the rates specified under the Act.

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ADVANCE AND DEPOSITES BY THE PROMOTERS

Application or booking fee can not be more than 10% of the cost of the apartment , plot or building as the case may be.

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ADDITION OR ALTERATION IN THE SANCTIONED, LAYOUT PLAN

- No addition or alteration in the sanctioned or layout plan approved by the competent authority can be made without consent of the allottee.
- Any alteration and minor changes can be made as required by the allottee and may be necessary due to architectural or structural changes .
- Changes must be verified by the appropriate architect or engineer after proper declaration and intimation to the allottee.
- Any alteration and addition in the sanctioned or layout plan of the building or common area can be made only after written consent of at least two third of the allottees other than the promoter agreed to take apartments.

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RIGHTS AND DUTIES OF ALLOTTEES

- The allottee shall be entitled to obtain all the information relating the project specifications.
- The allottee shall be entitled to know stage wise time schedule of completion of the project.
- The allottee shall be entitled to claim the possession of the apartment.
- The allottee shall be entitled to claim refund of amount paid along with the interest in case the promoter fails to comply or unable to give the possession as per agreement of sale.
- The allottee shall be entitled to have all necessary documents regarding common area even after handing over the physical possession of the apartment.
- The allottee shall be responsible to make all the payments on time and proper place.
- The allottee shall be responsible to pay interest for any delay in payment towards any amount to be paid.

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RIGHTS AND DUTIES OF ALLOTTEES

- Every allottee shall take physical possession within two months of the occupancy certificate issued for said apartment.
- Every allottee shall participate towards formation of an association or society.
- Every allottee shall participate towards registration of the conveyance deed.

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PENALTIES FOR PROMOTERS

Punishment for non registration by the promoter:

- ✓ Penalty which may extend upto 10% of the estimated cost of the real estate project.
- ✓ In case of non depositing the above penalty:
 - Imprisonment which may extend upto three years or
 - Fine which may extend upto further 10% of the estimated cost of the project or
 - Both

Penalty for providing false information by the promoter:

- ✓ Penalty which may extend upto 5% of the estimated cost of the real estate project.

Penalty for contravention of any provision of the Act. by the promoter except above two.

- ✓ Penalty which may extend upto 5% of the estimated cost of the real estate project.

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PENALTIES FOR PROMOTERS

- Penalty for failure to comply with any orders or direction of authority by promoters:**
 - ✓ Fine for every day during which such default continues and which may cumulatively extend upto 5% of the estimated cost of the real estate project.
- Penalty for failure to comply with any orders or decision of appellate tribunal by promoters:**
 - ✓ Imprisonment which may extend upto three years or
 - ✓ Fine for every day during which such default continues and which may cumulatively extend upto 10% of the estimated cost of the real estate project or
 - ✓ Both

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PENALTIES FOR REAL ESTATE AGENT

- Penalty for the Real Estate Agent for non-registration and failure on discharging his duties or functions:**
 - ✓ Penalty for rs. 10000 for every day and which may cumulatively extend upto 5% of the cost of the flat, plot or building of the project for which sale and purchase has been facilitated.
- Penalty for failure to comply with any orders or direction of authority by REA:**
 - ✓ Fine for every day during which such default continues and which may cumulatively extend upto 5% of the cost of the flat, plot or building of the project for which sale and purchase has been facilitated.
- Penalty for failure to comply with any orders or decision of appellate tribunal by REA:**
 - ✓ Imprisonment which may extend upto one year or
 - ✓ Fine for every day during which such default continues and which may cumulatively extend upto 10% of the cost of the flat, plot or building of the project for which sale and purchase has been facilitated or
 - ✓ Both

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PENALTIES FOR ALLOTTEES

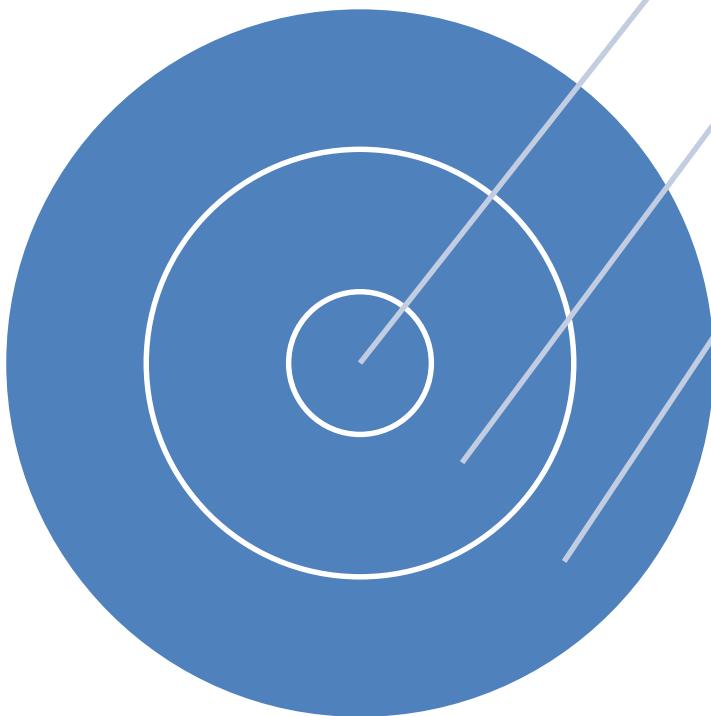
Penalty for failure to comply with any orders or decision of appellate tribunal by allottees:

- ✓ Imprisonment which may extend upto one years or
- ✓ Fine for every day during which such default continues and which may cumulatively extend upto 2% of the cost of the flat, plot or building of the project he entered into agreement of purchase or
- ✓ Both

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ROLE OF CMAs



**Preparation of proper
project wise cost
records**

**As an internal auditor
the bill provides more
scope for the auditing
with accuracy.**

**As per section 56 of
the Act. The Cost
Accountant can
appear before the
appellate tribunal.**

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THANK YOU

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