



Real Estate (Regulation & Development) Act, 2016

MahaRERA

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Introduction

- The Real Estate (Regulation and Development) Act, 2016 is an Act of the Parliament of India which seeks to protect home-buyers as well as help boost investments in the real estate industry.
- The bill was passed by the Parliament in March 2016.
- The Act came into force from 1 May 2016 with 69 of 92 sections notified.
- The Central and State Governments were liable to notify the Rules under the Act within a statutory period of six months.
- Applicable to whole of India except Jammu and Kashmir
- Real estate regulatory authority (RERA) is the governing authority.
- The law is not Retrospective.



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Purpose

- An Act to establish the Real Estate Regulatory Authority for regulation and promotion of the Real Estate sector.
- To ensure transparency real estate transactions and information availability about the projects.
- To protect the interest of consumers in the Real Estate Sector and to establish an adjudicating mechanism for speedy dispute redressal.



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Scope

- The Act applies to residential property, commercial property, plots and all types of real estate.
 - The Real Estate Project as defined in the Act, states that it shall include:
 - Development of buildings;
 - Development of buildings consisting of apartments;
 - Converting existing buildings or part thereof into apartments (e.g.:- converting a bungalow or hotel into apartment);
 - Development of land into plots or apartments for the purpose of selling all or some of the said apartments or plots or buildings.
- Thus, it is pertinent to note that the Act is wide enough to cover within its scope development of land for buildings, apartments as well as plots. Further, the Act covers not only residential projects but also commercial projects.



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Salient Features

- It establishes the State Real Estate Regulatory Authority for that particular state as the government body to be approached for redressal of grievances against any builder. This will happen once every state ratifies this Act and establishes a state authority on the lines set up in the law.
- This law vests authority on the real estate regulator to govern both residential and commercial real estate transactions.
- This law makes it mandatory for developers to post all information on issues such as project plan, layout, government approvals, land title status, sub-contractors to the project, schedule for completion with the State Real Estate Regulatory Authority (RERA) and then in effect pass this information on to the consumers.
- The current practice of selling on the basis of ambiguous super built-up area for a real estate project will come to a stop as this law makes it illegal. Carpet area has been clearly defined in the law.
- The maximum jail term for a developer who violates the order of the appellate tribunal of the RERA is three years with or without a fine.



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Salient Features

- Currently, if a project is delayed, then the developer does not suffer in any way. Now, the law ensures that any delay in project completion will make the developer liable to pay the same interest as the EMI being paid by the consumer to the bank back to the consumer
- The developer cannot make any changes to the plan that had been sold without the written consent of the buyer.
- This puts paid to a common and unpopular practice by developers to increase the cost of projects.
- Every project measuring more than 500 square meters or more than eight apartments will have to be registered with the RERA.
- The law mandates every builder to keep 70% of collection from every project in Separate Bank Account.



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Registration

- Who is liable to get Registration from RERA?
 - Every Project needs to be registered before selling, marketing, advertising or making any offer to sell
 - For on-going projects which have not received completion certificate on the date of commencement of the Act, will have to seek registration within 3 months.
 - Real estate agents who facilitate selling or purchase of properties must take prior registration from RERA.
 - Such agents will be issued a single registration number for each State or Union Territory, which must be quoted by the agent in every sale facilitated by him.



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Registration

- What is the Process of Registration?
 - Applicant has to file an application for registration with RERA in prescribed form along with prescribed fees and documents.
 - Application for registration must be either approved or rejected within a period of 30 days from the date of application by the RERA.
 - On successful registration, the promoter of the project will be provided with a registration number, a login id and password for the applicants to fill up essential details on the website of the RERA.
- What is the penalty for failure to get register?
 - A penalty of up to 10 percent of the project cost or three years' imprisonment may be imposed.



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Registration

4. Consequence

1. Monetary penalty
2. Debar the promoters from accessing the website in relation to that project
3. Specifying his name in list of defaulters
4. Display his photograph on its website and inform the other RERA.
5. Direct the bank to freeze the account

1. Time limit for registration

1. For on-going Projects – 3 months from commencement of this Act
2. For new projects - before offering to sell and marketing

Registration

3. Revocation

1. On complaint
2. Suo moto

Where promoters makes default or violates any terms or conditions of the approval or promoters involved in any kind of unfair practice.

2. Exceptions

1. Area of land \leq 500 Sq. Meters
2. No. Of apartments \leq 8
3. In case of Renovation/ Repair/Re-development



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Impact

- All project details to be public
- Liable for structural defects for 5 years
- Provision for insurance of land title- will benefit buyers and sellers
- 70% of sales proceeds to go into a separate account and to be used only for project
- Real estate Agents to register with RERA
- Penalties includes project deregistration and monetary penalties
- Imprisonment for violations
- Non- compliance with Tribunal Order could mean jail



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Withdrawal

For ongoing projects (One Time)

- a Chartered Accountant certifying the balance amount of receivables from the flats/premises sold or allotted & estimated amount of receivables in respect of unsold flat/premises calculated at the prevailing ASR rate on the date of Certificate.

Ongoing basis for Withdrawal

- the Project Architect – percentage (%) completion of construction work of each building/wing of the Project;
- the Engineer for the work completed of each building/wing of the Project;
- a Chartered Accountant for the cost incurred on land and construction and percentage of work completed, and the amount that can be withdrawn from the separate account



Withdrawal

S.No .	Particulars	Formula	Total Est. Amount INR Cr)	Amount Incd. (INR Cr) Scenarios		
				1	2	3
1	Land Cost		2,000.0	2,000.0	1,000.0	2,200.0
2	Estimated Cost of Construction as certified by Engineer		900.0	100.0	150.0	900.0
3	Actual Cost of Construction as per books of Accounts as certified by CA		-	150.0	200.0	850.0
4	Incurred Cost of construction	lower of 2 and 3	-	100.0	150.0	850.0
5	Development Cost Other than construction		100.0	100.0	50.0	50.0
A	Total Estimated Project Cost	1 + 2	3,000.0			
B	Total Project Cost incurred	1 + 4 + A		2,200.0	1,200.0	3,100.0
i	% of completion per architect			70%	35%	95%
ii	% completion as per CA	B/A		73%	40%	103%
iii	Amount Deposited in the designated bank account			10.0	150.0	350.0
iv	Maximum Amount That can be withdrawn	ii X A		2,200.0	1,200.0	3,000.0
v	Less amount already withdrawn			5.0	100.0	300.0
vi	Net Amount that can be withdrawn	min (iii & iv) less v		5.0	50.0	50.0



Impact - Customer

Hit

- Increased Stress on Delivery
- 70% of Sales Proceed to be used for Project
 - Balanced builder-buyer agreements.
 - Faster dispute resolution
 - Regulated broker environment.
- Greater visibility of developer's record.

Miss

- No timelines for Approvals
- Prices may increase due to consolidation and more compliance
- Limit Supply – launch only after obtaining approvals



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Impact - Developer

Hit

- Consolidation
- Quality governance, accountability standardization and professionalism in the sector.
- Higher investment in the sector
 - Entry of Larger Players

Miss

- No provision to rationalize the number of approvals required for a project or expedite approvals through a single window mechanism.
- Cash Flow Restrictions leading to higher borrowing
- Possible impact on joint venture arrangements.
- Potential delay in cash-flow realizations from projects.



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