

STUDENTS' ECONOMIC FORUM

A monthly publication from South Indian Bank

*To kindle interest in economic affairs...
To empower the student community...*



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Theme 302

**THE REAL ESTATE (DEVELOPMENT &
REGULATION) BILL 2016**

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South Indian Bank is a member of BCSBI and is committed to treat customers in a fair, transparent and non-discriminatory manner.

Theme No: 302: The Real Estate (Development & Regulation) Bill
2016

A well informed customer will make the policy makers as well as organizations which produce goods and services more responsive to the customer needs. This will also result in healthy competition among organizations and improve the quality of goods and services produced.

The "SIB Students' Economic forum" is designed to kindle interest in the minds of younger generation. We highlight one theme in every monthly meeting of the "Forum". This month, we will discuss "The Real Estate (Regulation and Development) Act, 2016".

1. What is the objective of Real Estate (Regulation and Development) Act, 2016?

The Real Estate (Regulation and Development) Act, 2016 has been enacted with the object to establish Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in real estate sector and to establish an adjudicating mechanism including establishment of Appellate Tribunal for speedy dispute redressal. The Act has come into effect from May 1, 2016 and the deadline for all states to establish a Real Estate Regulatory Authority and an Appellate Tribunal is April 30, 2017.

2. Whether registration of ongoing Real Estate project is mandatory?

The Act provides that a promoter cannot advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act. The projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act.

3. Whether all the Real Estate project needs to be registered under this act?

The registration of real estate project is not required in the following cases:-

- a. Where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases.
- b. Where the promoter has received completion certificate for a real estate project prior to commencement of this Act

- c. For the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

4. How to apply for the registration of real estate projects under this act?

Promoter shall make an application to the Authority for registration of the real estate project along with the following information:-

- a. A brief details of his enterprise including its name, registered address, type of enterprise (Proprietorship, Society, Partnership, Company)
- b. A brief detail of the projects launched by him, in the past five years, including the current status of the said projects.
- c. The sanctioned plan, layout plan and specifications of the proposed project, authenticated copy of the approvals and commencement certificate.
- d. The location details of the project, with clear demarcation of land dedicated for the project, proforma of the allotment letter, agreement for sale, and the conveyance deed.

Further, the promoter is required to furnish a declaration, supported by an affidavit stating the following:-

- a. That he has a legal title to the land on which the development is proposed along with legally valid documents with authentication of such title, if such land is owned by another person.
- b. That the land is free from all encumbrances, or as the case may be details of the encumbrances on such land including any rights, title, interest or name of any party in or over such land along with details.
- c. The time period within which he undertakes to complete the project
- d. That seventy per cent of the amounts realised for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose.

5. What is the timeframe for granting or rejecting the registration?

On receipt of the application from the promoter, the authority shall within a period of thirty days, grant registration and provide a registration number, including a Login Id and password to the applicant for accessing the website of the Authority or reject the application for registration with reasons, if such application does not conform to the provisions of this Act.

6. When the registration is revoked under this act?

The Authority may, on receipt of a complaint or suo motu in this behalf or on the recommendation of the competent authority, revoke the registration granted to promoter in the following circumstances:-

- a. Promoter violates any of the terms or conditions of the approval given by the competent authority.
- b. Promoter is involved in any kind of unfair practice or irregularities i.e., represents that the promoter has approval or affiliation which such promoter does not have, makes a false or misleading representation concerning the services.
- c. Promoter defaults under the Act or the rules or the regulations.

Before revoking the registration, the authority has to give the promoter not less than thirty days notice, in writing, stating the grounds on which it is proposed to revoke the registration, and has considered any cause shown by the promoter within the period of that notice against the proposed revocation.

7. What are the consequences of revocation of registration?

Once the registration is revoked, the Authority:-

- a. Shall debar the promoter from accessing its website in relation to that project and specify his name in the list of defaulters and display his photograph on its website and also inform the other Real Estate Regulatory Authority in other States and Union territories about such revocation or registration.
- b. Shall facilitate the remaining development works to be carried out.
- c. Shall direct the bank holding the project account, to freeze the account, and thereafter take such further necessary actions, including consequent de-freezing of the said account, towards facilitating the remaining development works.
- d. Should issue directions necessary to protect the interest of allottees or in the public interest.

8. What is the role of real estate agents?

Real estate agent registered under this act:-

- a. Shall not facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being sold by the promoter in any planning area, which is not registered with the Authority.
- b. Shall maintain and preserve books of account, records and documents.
- c. Shall facilitate the possession of all the information and documents, as the allottee, is entitled to, at the time of booking of any plot, apartment or building.

9. What are the functions and duties of promoters?

The promoter shall, upon receiving his Login Id and password, create his web page on the website of the Authority and enter all details of the proposed project, for public viewing with the quarterly updates of the project, approvals taken and the approvals which are pending subsequent to commencement certificate and number and types of apartments or plots booked.

The promoter at the time of the booking and issue of allotment letter shall be responsible to inform the allottee about the sanctioned plans, layout plans, along with specifications, approved by the competent authority and the stage-wise time schedule of completion of the project, including the provisions for civic infrastructure like water, sanitation and electricity.

Duties of promoters

- a. Obtaining the completion certificate or the occupancy certificate, or both and make it available to the allottees individually or to the association of allottees.
- b. Obtaining the lease certificate, where the real estate project is developed on a leasehold land, specifying the period of lease, and certifying that all dues and charges in regard to the leasehold land has been paid, and to make the lease certificate available to the association of allottees.
- c. Providing and maintaining the essential services, on reasonable charges, till the taking

- over of the maintenance of the project by the association of the allottees.
- d. Formation of an association or society or co-operative society, as the case may be, of the allottees, or a federation of the same.
 - e. Executing the registered conveyance deed of the apartment, plot or building, as the case may be, in favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees or competent authority.
 - f. The structural defect continues even after the execution of conveyance deed.

10. What are the rights and duties of allottees?

Rights of allottees

- a. To obtain the information relating to sanctioned plans, layout plans along with the specifications, approved by the competent authority and such other information as provided in this Act or the rules and regulations made thereunder or the agreement for sale signed with the promoter. To have necessary documents and plans, including that of common areas, after handing over the physical possession of the apartment or plot or building.
- b. To know stage-wise time schedule of completion of the project, including the provisions for water, sanitation, electricity and other amenities and services as agreed to between the promoter and the allottee in accordance with the terms and conditions of the agreement for sale.
- c. To claim the possession of apartment, plot or building and the association of allottees shall be entitled to claim the possession of the common areas.
- d. To claim the refund of amount paid along with interest and compensation from the promoter, if the promoter fails to comply or is unable to give possession of the apartment, plot or building, in accordance with the terms of agreement for sale or due to discontinuance of his business as a developer on account of suspension or revocation of his registration under the provisions of this Act or the rules or regulations made there under.

Duties of allottees

- a. Every allottee, who has entered into an agreement for sale to take an apartment, plot or building shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any.
- b. The allottee shall be liable to pay interest, at such rate as may be prescribed, for any delay in payment towards any amount or charges to be paid.
- c. Every allottee of the apartment, plot or building shall participate towards the formation of an association or society or cooperative society of the allottees, or a federation of the same.
- d. Every allottee shall take physical possession of the apartment, plot or building, within a period of two months of the occupancy certificate issued for the said apartment, plot or building.



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