



**ANDHRA PRADESH REAL ESTATE (REGULATION AND
DEVELOPMENT) RULES, 2017**

HANDBOOK
(Draft Version 1.0)

INDEX

Chairman’s Message	1
1) COMMENCEMENT OF AP RERA RULES: -	3
2) OBJECTIVES: -	3
3) FUNCTIONS: -	3
4) APPLICABILITY OF RERA: -	3
5) FEE FOR REGISTRATION OF PROJECT, REAL ESTATE AGENT & COMPLAINT: -	4
6) REGISTRATION OF PROJECT: -	4
Process for Registration of Project: -	4
Grant of Registration: -	4
Rejection of Registration: -	4
SEPARATE ACCOUNT: -	5
Withdrawal of Application: -	5
Extension of Registration: -	5
Revocation of Registration: -	5
7) FUNCTIONS AND DUTIES OF THE PROMOTER: -	6
8) OBLIGATIONS OF THE PROMOTER: -	7
9) REGISTRATION OF REAL ESTATE AGENT: -	9
Application for Registration: -	9
Grant of Registration: -	9
Renewal of Registration: -	9
Revocation of Registration: -	9
10) FUNCTIONS OF A REAL ESTATE AGENT: -	10
11) RIGHTS AND DUTIES OF ALLOTTEES: -	10
12) DETAILS TO BE PUBLISHED IN AP RERA WEBSITE: -	11
13) COMPLAINTS: -	12
a) Filing a Complaint to Authority: -	12
b) Filing a Complaint to Adjudicating Officer: -	13
FAQ: General FAQ	144

1) COMMENCEMENT OF AP RERA RULES: -

The Real Estate (Regulation & Development) Act-2016 was introduced by the Government of India with effect from 01.05.2017.

Andhra Pradesh Real Estate (Regulation and Development) Rules, 2017 was notified vide G.O.Ms.No. 115, dated: 27.03.2017

2) OBJECTIVES: -

- Regulation and Promotion of Real Estate sector
- Ensure the sale of any plot, apartment, residential or commercial building or part of Real Estate project in an efficient and transparent manner
- Protect the interest of consumers in Real Estate sector
- Establish Adjudicating mechanism for speedy dispute redressal

3) FUNCTIONS: -

To facilitate the growth and promotion of a healthy, transparent, efficient and competitive real Estate sector, the Authority shall

- register and regulate real estate projects and real estate agents registered under this Act;
- publish and maintain a website of records, for public viewing, of all real estate projects for which registration has been given, with such details as may be prescribed, including information provided in the application for which registration has been granted;
- maintain a database, on its website, for public viewing, and enter the names and photographs of promoters as defaulters including the project details, registration for which has been revoked or have been penalised under this Act, with reasons thereof, for access to the general public;
- maintain a database, on its website, for public viewing, and enter the names and photographs of real estate agents who have applied and registered under this Act, with such details as may be prescribed, including those whose registration has been rejected or revoked;
- fix through regulations for each areas under its jurisdiction the standard fees to be levied on the allottees or the promoter or the real estate agent, as the case may be;
- ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder;
- ensure compliance of its regulations or orders or directions made in exercise of its powers under this Act;
- perform such other functions as may be entrusted to the Authority by the appropriate Government as may be necessary to carry out the provisions of this Act.

4) APPLICABILITY OF RERA: -

- Applicable for all new Real Estate projects for the site area more than 500 sq.mts. and for a building having more than 8 units (plots, apartments) including all phases
- Applicable for all ongoing projects (except the following) as on the date of commencement of AP RERA i.e.01.05.2017

- a) Where roads, open spaces, amenities and services have been handed over to the concern local body in layout projects
- b) Where all slabs are laid in housing projects
- c) Where all developmental works have been completed and sale / lease deeds of 50% of the Apartments / Houses/ Plots have been executed.
- d) Where development works have been completed and application has been filed to the competent authority for issue of Completion or Occupancy Certificate.

5) FEE FOR REGISTRATION OF PROJECT, REAL ESTATE AGENT & COMPLAINT: -

- The registration fee for Project, Agent and Complaint shall be as per the **Annexure - 6**
- The fee for extension of registration is equivalent to twice the registration fee.

6) REGISTRATION OF PROJECT: -

- The application shall be filed in prescribed form.
- No Promoter shall 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, without registering the Real Estate project with AP RERA.

Process for Registration of Project: -

- The Promoter shall submit application along with all the documents as mentioned in **Annexure – 2**.
- Promoter shall make separate application for registration of every project for the construction of each phase or separate building or group of buildings in layouts.

Grant of Registration: -

- On receipt of the application, the Authority shall issue orders of registration within 30 days subject to the provisions of RERA Act, Rules and Regulations of AP RERA
- The Promoter will be provided a Registration number and a **webpage** will be created along with Login Id and password so as to upload the details/progress of the project from time to time.
- If the Registration number is not issued within 30 days, the project shall be deemed to be registered.

Rejection of Registration: -

- Application can be rejected, if it does not confirm to the provisions mentioned in Act and Rules.
- Provided that no application shall be rejected unless the Promoter has been given an opportunity of being heard in the matter.

SEPARATE ACCOUNT: -

- Promoter shall deposit 70% of the amounts realised from the Allottees, from time to time in a separate account to be maintained to cover the cost of construction and the land cost.
- Promoter shall withdraw the amount from separate account, in proportion to the % of completion of the project after certified by an Engineer, an Architect and a Chartered accountant in practice.
- Promoter shall get his account audited within 6 months after the end of every financial year by a chartered accountant and shall produce a statement of accounts duly certified and signed by such Chartered Accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilised for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.

Withdrawal of Application: -

- The Promoter can apply for the withdrawal of application for registration of the project, before 30 days from the date of submission of application.

Extension of Registration: -

- The promoter shall apply for extension of registration along with an explanatory note and supporting documents for the reasons of delay.
- The promoter has to apply 3 months prior to the expiry of the registration granted.
- The registration of project may be extended up to 1 year.
- Extension of registration of the project shall not be beyond the period provided as per local laws for completion of the project.
- No application for extension of registration of project shall be rejected unless the applicant has been given an opportunity of being heard in the matter.

Revocation of Registration: -

- The Authority may revoke the registration granted on receipt of a complaint or on 'suomotu' or on recommendation of Competent authority.
- The registration granted to the promoter shall be revoked when the Promoter makes default in doing or violates or involved in any kind of unfair practice or irregularities.
- The registration granted to the Promoter shall not be revoked unless the Authority has given notice to the Promoter, not less than 30 days in writing stating the grounds on which it is proposed to revoke and any cause shown by the Promoter against the proposed revocation within the period of notice.
- Upon revocation of the registration, the authority will display the name of the promoter in the list of defaulters.
 - a) debar Promoter from accessing website in relation to the project
 - b) specify the name in the list of defaulters and display his photograph on website
 - c) inform the RERA Authorities in other states and Union territories about such revocation

- d) direct the bank holding the project bank account, to freeze the account and de-freezing for the remaining development works or any other further actions
- Upon revocation, the Authority may carry out the remaining development works or by the association of Allottees or by the contractor selected by the Allottees
- The association of Allottees shall have the first right of refusal for carrying out the remaining development works.

7) FUNCTIONS AND DUTIES OF THE PROMOTER: -

- After receiving the Login Id and password of the **webpage**, the Promoter shall upload all the details of proposed project for public viewing.
 - a) Details of registration granted by the Authority;
 - b) Quarterly up-to-date, list of number and types of apartments or plots;
 - c) Quarterly up-to-date, list of number of garages booked;
 - d) Quarterly up-to-date, list of approval taken and the approvals which are pending subsequent to commencement certificate;
 - e) Quarterly up-to-date, status of the project;
 - f) Such other information and documents as may be specified by the regulations made by the Authority.
- The advertisement or prospectus issued or published by the Promoter shall mention prominently the website address of the Authority, wherein all details of the registered project including the registration number obtained from the Authority
- The Promoter, at the time of the booking and issue of allotment letter shall be responsible to make available the details of sanctioned plans, layout plans along with specifications approved by the Competent Authority and the stage wise time schedule of completion of the project, provisions for civic infrastructure like water, sanitation and electricity to the Allottee.
- The Promoter shall—
 - a) be responsible for all obligations, responsibilities and functions under the provisions of this Act and Rules to the Allottees as per the Agreement for sale, or to the association of Allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the Allottees, or the common areas to the association of Allottees or the Competent Authority, as the case may be;
 - b) be responsible for any structural defect or any other defect for such period of 5 years from date of conveyance deed executed to the Allottees for all the apartments, plots or buildings, as the case may be;
 - c) be responsible to obtain the occupancy certificate, and to make it available to the Allottees individually or to the association of Allottees, as the case may be;
 - d) be responsible to obtain 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 make the lease certificate available to the association of Allottees;

- e) be responsible for 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;
 - f) Enable the formation of an association or society or co-operative society of the Allottees, or a federation of the same shall be formed within a period of 3 months of the majority of Allottees having booked their plot or apartment or building,
 - g) Execute a registered conveyance deed of the apartment, plot or building, in favor of the allottee along with the undivided proportionate title in the common areas to the association of Allottees or Competent Authority
 - h) Pay all the outgoings which he has collected from the Allottees (including land cost, ground rent, municipal or other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to Competent Authorities, banks and financial institutions, which are related to the project) before he transfers the physical possession of the Real Estate project to the allottee or the association of Allottees
 - i) Continue to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authority or person to whom they are payable and be liable for the cost of any legal proceedings which may be taken therefore by such authority or person;
- The Promoter may cancel the allotment only in terms of the agreement for sale. Provided that the allottee may approach the Authority for relief, if cancellation is not in accordance with the terms of the agreement for sale;
 - After executed the Agreement for sale for any apartment, plot or building, as the case may be, not mortgaged or create a charge on such apartment, plot or building as the case may be and if any such mortgage or charge is made or created then notwithstanding anything contained in any other law for time being in force; it shall not affect the right and interest of the allottee who has taken or agreed to take such apartment, plot or apartment, as the case may be;
 - The Promoter shall prepare and maintain all such other details as may be specified, from time to time, by regulations made by the Authority.

8) OBLIGATIONS OF THE PROMOTER: -

- **Advertisement** - No Promoter shall 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, without registering the Real Estate project with AP RERA
- **Veracity of Advertisement** -
 - a. Promoter shall compensate, if any person makes an advance or deposit on the basis of the information contained in the notice advertisement or prospectus, or on the basis of any model apartment, plot or building, as the case may be, and sustains any loss or damage by reason of any incorrect, false statement

- b. If the person affected by such incorrect, false statement contained in the notice, advertisement or prospectus, or the model apartment, plot or building, as the case may be, intends to withdraw from the proposed project, he shall be returned his entire investment along with interest at such rate in the manner provided under AP RERA Rules
- **Agreement for Sale and Advance payment-** A Promoter shall not accept a sum more than 10% of the cost of the apartment, plot, or building as the case may be, as an advance payment or an application fee, from a person without first entering into a written agreement for sale with such person and register the said agreement for sale, under any law for the time being in force
 - **Adherence to the Sanctioned Plans -**
 - a) The proposed project shall be developed and completed by the Promoter in accordance with the sanctioned plans, layout plans and specifications as approved by the Competent Authorities.
 - b) If any additions and alterations in the sanctioned plans, layout plans and specifications and the nature of fixtures, fittings and amenities described therein in respect of the apartment, plot or building, as the case may be, which are agreed to be taken, shall be communicated to the Allottees and AP RERA
 - c) Promoter may make such minor additions or alterations as may be required by the allottee, or such minor changes or alterations as may be necessary due to architectural and structural reasons duly recommended and verified by an authorised Architect or Engineer after proper declaration and intimation to the allottee.
 - **Transfer of Real Estate Project to third party –**
 - i. The Promoter shall not transfer or assign his majority rights and liabilities in respect of a Real Estate project to a third party without obtaining prior written consent from 2/3rd of Allottees, except the Promoter, and without the prior written approval of the Authority. Provided that such transfer or assignment shall not affect the allotment or sale of the apartments, plots or buildings as the case may be.
 - ii. On the transfer or assignment being permitted by the allottees and the Authority, the intending Promoter shall be required to independently comply with all the pending obligations under the provisions of the Act or the Rules and Regulations and the pending obligations as per the Agreement for sale. Provided that any transfer or assignment shall not result in extension of time to the intending Promoter to complete the Real estate project. In case of default, such intending Promoter shall be liable to the consequences of breach or delay.
 - **Insurance of Real Estate Project:** -The Promoter shall obtain all such insurances as mentioned in AP RERA Rules, including but not limited to insurance in respect of—
 - (i) title of the land and building as a part of the Real Estate project; and
 - (ii) construction of the Real Estate project
 - a. The Promoter shall be liable to pay the premium and charges in respect of the insurance and shall pay the same before transferring the insurance to the association of the Allottees.

- b. The insurance shall stand transferred to the benefit of the allottee or the association of Allottees, at the time of entering into an agreement for sale.
- c. On formation of the association of the Allottees, all documents relating to the insurance shall be handed over to the association of the Allottees.

- **Transfer of Title: -**

- a) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common area to the association of the allottees or the competent authority as the case may be, as provide under the local laws or within 3 months date of issue of occupancy certificate.
- b) Promoter shall hand over the physical possession and necessary documents and plans to the Allottees, including the common area to the association of the allottees or the competent authority, as the case may be as per the local laws or within 30 days after obtaining the occupancy certificate.

9) REGISTRATION OF REAL ESTATE AGENT: -

Application for Registration:-

Every Real Estate Agent shall submit application in the website of the Authority with all the documents mentioned in **Annexure – 5**.

Grant of Registration: -

- On receipt of application the Regulatory Authority shall issue a certificate with a Registration number to the Real Estate Agent.
- The registration granted shall be valid for a period of five years

Renewal of Registration: -

- For renewal, Agent shall submit the application along with updated documents as per **Annexure - 5** prior to 3 months of expiry of the registration.
- The renewal granted under this rule shall be valid for a period of 5 years.

Revocation of Registration: -

- Where any real estate agent who has been granted registration under this Act commits breach of any of the conditions or any terms and conditions or rules and regulations or misrepresentation or fraud, the Authority may, without prejudice to any other provisions under this Act, revoke the registration or suspend the same for such period as it thinks fit.

- No revocation or suspension shall be made by the Authority unless an opportunity of being heard as been given.

10) FUNCTIONS OF A REAL ESTATE AGENT: -

Every registered Real Estate Agent shall,

- Not facilitate the sale or purchase of any plot, Apartment or building as the case may be, in the Real Estate Project or part which is not registered with the Regulatory Authority;
- Maintain and preserve books of accounts, records and documents;
- Not involve himself in (any unfair trade practices) making false statement, orally or in writing or by visible representation about
 - a) service or amenities or of a particular standard or grade,
 - b) Promoter or himself has approval or affiliation,
 - c) services which the promoter does not have.
 - d) advertisement whether in any newspaper or other media of services that are not intended to be offered by the Promoter.
- Facilitate the possession of all the information and documents, as the allottee is entitled to, at the time of booking;
- Maintain the register of Allottees in **Annexure - 10** and the statement indicating person wise receipts and disbursement in respect of sums accepted as advance from the Allottees and the statement indicating purpose wise receipts in respect of sums accepted as advance or commission and shall be in **Annexure - 11** respectively;

11) RIGHTS AND DUTIES OF ALLOTTEES: -

Every Allottee shall:

- Entitled to obtain the information relating to sanctioned plans, layout plans along with the specifications, approved by the Competent Authority.
- Entitled to know stage-wise time schedule of completion of the project.
- Entitled 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.
- Entitled to claim the refund of amount paid along with interest as per the provisions of the Act and Rules and Regulations.
- Entitled to have the necessary documents and plans, after handing over the physical possession of the apartment or plot or building by the Promoter.
- Be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale.
- Believable to pay interest, for any delay in payment towards any amount or charges to be paid as per the provisions of the Act.

- The obligations of the allottee and the liability towards interest may be reduced when mutually agreed to between the Promoter and such allottee.
- Every allottee of the apartment, plot or building as the case may be, shall participate towards the formation of an association or society or cooperative society of the Allottees, or a federation of the same.
- Every allottee shall take physical possession of the apartment, plot or building as the case may be, within a period of two months of the occupancy certificate issued for the said apartment, plot or building, as the case may be.
- Every allottee shall participate towards registration of the conveyance deed of the apartment, plot or building

12) DETAILS TO BE PUBLISHED IN AP RERA WEBSITE: -

a) Promoters – Details of the Promoter includes the following information,

- **Profile** – Developer or Group Profile of his enterprise including name, address, type of enterprise and the particulars of registration. In case of new incorporated or registered entity, brief details of the parent entity including its name, registered address and type of enterprise
- **Background** – Educational qualifications and work experience (in case of new entity, work experience of parent entity)
- **Track record** – Number of years of experience of Promoter or parent entity, also in other states or union territories, number of completed projects and area till date, number of ongoing projects and proposed area to be constructed, details and profile of ongoing and completed projects for the past 5 years
- **Litigations** – Details of past or ongoing litigations in relation to the Real Estate project
- **Webpage** – Web link to the developer's or group's website and web link to the project's website

b) Project – Details of the Real Estate Project includes the following information,

- **Compliance and Registration** – Authenticated copy of approvals, commencement notice, sanctioned building/layout plan, specifications of the project and details of the registration granted by the Regulatory Authority
- **Apartment and Garage/Parking** – Number, type and carpet area of apartments for sale in projects, number and areas of garage/parking for sale, number of open parking areas.
- **Registered Agent** – Name and addresses of Real Estate agents registered with AP RERA
- **Consultants** – Name and addresses of Contractors, Architect, Structural Engineer and Chartered Accountant along with the name & address of the firm, name of Promoters, license number and its validity, names and profile of key projects completed
- **Location** – Location details of the project with clear demarcation of land dedicated to project along with boundaries including latitude and longitude of the end points
- **Development works** – Plan of development works including firefighting facilities, use of renewable energy, amenities, Gantt charts and Project schedule
- **Finances of Promoter** – Details of Pan card, IT Returns of Promoter for three preceding years

- **Details in Promoter's Webpage** – List of number and types of apartments or plots, garages/parking booked, Status of Project (each building, floor, internal infrastructure and common areas with photographs)
- **Approvals** – NOC's, Approved plans, any other licenses if required, Occupancy certificate.
- **Legal Documents** – Title deed, Land title search report from an advocate, Encumbrances certificate, Development agreement and such other documents or information as specified.
- **Contact details** – Contact address, contact numbers and e-mails of the Promoter and other officials handling the project
- **Revoked projects** – Details of projects which are revoked or penalized.

c) **Agent** – Details of Real Estate Agent includes the following information,

- **Registered Agent's Profile** –Name of individual (directors or partners if applicable), photographs, brief details of his enterprise, bye-laws, memorandum of Association and articles of association in case of company, Registration number and its validity with Authority, Pan card, IT returns for three financial years, address proof of the place of business, contact numbers,email-id's and such other information
- **Revoked Agent's details** – Registration number, validity of registration, details of his enterprise along with the photographs

13) COMPLAINTS: -

a) Filing a Complaint to Authority: -

- Any aggrieved person may file a complaint with the regulatory authority for any violation under the Act or the Rules and regulations which shall be accompanied by a fee as specified in **Annexure - 6**
- The regulatory authority shall for the purposes of deciding any complaint, follow summary procedure for inquiry in the following manner:
 - (a) Upon receipt of the complaint the regulatory authority shall issue a notice along with particulars of the alleged contravention and the relevant documents to the respondent;
 - (b) The notice shall specify a date and time for further hearing;
 - (c) On the date so fixed, the regulatory authority shall explain to the respondent about the contravention alleged to have been committed in relation to any of the provisions of the Act or the Rules and regulations made there under and if the respondent:
 - (i) pleads guilty, the regulatory authority shall record the plea, and pass such orders including imposition of penalty as it thinks fit in accordance with the provisions of the Act or the Rules and regulations, made thereunder;
 - (ii) does not plead guilty and contests the complaint the regulatory authority shall demand and explanation from the respondent;
 - (d) In case the regulatory authority is satisfied on the basis of the submissions made that the complaint does not require any further inquiry it may dismiss the complaint;
 - (e) In case the regulatory authority is satisfied on the basis of the submissions made that there is need for further hearing into the complaint it may order production of documents or other evidence on a date and time fixed by it;

- (f) The regulatory authority shall have the power to carry out an inquiry into the complaint on the basis of documents and submissions;
- (g) On the date so fixed, the regulatory authority upon consideration of the evidence produced before it and other records and submissions is satisfied that -
 - (i) the respondent is in contravention of the provisions of the Act or the Rules and regulations made thereunder it shall pass such orders including imposition of penalty as it thinks fit in accordance with the provisions of the Act or the Rules and regulations made thereunder;
 - (ii) the respondent is not in contravention of the provisions of the Act or the Rules and regulations made thereunder the regulatory authority may, by order in writing, dismiss the complaint, with reasons to be recorded in writing.
- (h) If any person fails, neglects or refuses to appear, or present himself as required before the regulatory authority, the regulatory authority shall have the power to proceed with the inquiry in the absence of such person or persons after recording the reasons for doing so.

b) Filing a Complaint to Adjudicating Officer: -

- Any aggrieved person may file a complaint with the adjudicating officer for compensation under Section 12, 14, 18 and 19 which shall be accompanied by a fee as prescribed in **Annexure - 6**
- The adjudicating officer shall for the purposes of adjudging compensation follow summary procedure for inquiry in the following manner:
 - (i) Upon receipt of the complaint the adjudicating officer shall issue a notice along with particulars of the alleged contravention and the relevant documents to the Promoter;
 - (j) The notice shall specify a date and time for further hearing;
 - (k) On the date so fixed, the adjudicating officer shall explain to the Promoter about the contravention alleged to have been committed in relation to any of the provisions of the Act or the Rules and regulations made thereunder and if the Promoter:
 - (i) pleads guilty, the adjudicating officer shall record the plea, and award such compensation as he thinks fit in accordance with the provisions of the Act or the Rules and regulations, made there under;
 - (ii) does not plead guilty and contests the complaint the adjudicating officer shall demand and explanation from the Promoter;
 - (l) In case the adjudicating officer is satisfied on the basis of the submissions made that the complaint does not require any further inquiry it may dismiss the complaint;
 - (m) In case the adjudicating officer is satisfied on the basis of the submissions made that there is need for further hearing into the complaint it may order production of documents or other evidence on a date and time fixed by him;
 - (n) The adjudicating officer shall have the power to carry out an inquiry into the complaint on the basis of documents and submissions;
 - (o) On the date so fixed, the adjudicating officer upon consideration of the evidence produced before him and other records and submissions is satisfied that the Promoter is-
 - (i) liable to pay compensation, the adjudicating officer may, by order in writing, order payment of such compensation, as deemed fit by the Promoter to the complainant; or
 - (ii) not liable to any compensation, the adjudicating officer may, by order in writing, dismiss the complaint, with reasons to be recorded in writing.

If any person fails, neglects or refuses to appear, or present him as required before the adjudicating officer, the adjudicating officer shall have the power to proceed with the

inquiry in the absence of such person or persons after recording the reasons for doing so.

- Provided that any person whose complaint in respect of matters covered under sections 12, 14, 18 and section 19 is pending before the Consumer Disputes Redressal Forum or the Consumer Disputes Redressal Commission or the National Consumer Redressal Commission, established under section 9 of the Consumer Protection Act, 1986, on or before the commencement of this Act, he may, with the permission of such Forum or Commission, as the case may be, withdraw the complaint pending before it and file an application before the adjudicating officer under this Act.

FAQ : General FAQ

Status:

1. . What is the status of the Act?

The Real Estate Bill was passed by the Rajya Sabha on 10th March, 2016 and the Lok Sabha on 15th March, 2016. The Bill as passed by the Parliament was assented to by the Hon'ble President on 25th March, 2016. The Act as assented to by the Hon'ble President was published in the Official Gazette on 26th March, 2016 for public information.

2. When did the Act come into force?

Provisions of section 2, sections 20 to 39, section 41 to 58, sections 71 to 78 and sections 81 to 92 (relating to definitions, establishment/appointment of Regulatory Authority/Appellate Tribunal, Adjudicating Officer, framing of Rules/Regulations, constituting regulatory Fund, making website etc. came into force with effect from 1st May, 2016 vide Notfn. dt. 26.04.2016 of the Central Govt. (Ministry of HUPA). Remaining provisions of sections 3 to 19, 40, 59 to 70, 79 and 80 regarding registration of real estate projects, real estate agents, responsibilities of promoters/ allottees/agents, about penalties and offences etc. came into force w.e.f. 01.05.2017 vide Notfn. dt.19.04.2017 of the Central Govt. (Ministry of HUPA).

3. Why have some sections of the Act have been notified later?

Some sections of the Act have been notified later, as the institutional structures, namely the establishment of the Regulatory Authority and the Appellate Tribunal are necessary prior to their enforcement.

OBJECTS AND REASONS:

4. What was the need for a regulatory law for the real estate sector?

The real estate has grown in the recent years but has largely been unregulated from the perspective of consumer protection. Though, consumer protection laws are available, the recourse available therein is only curative, but not preventive. This has affected the overall potential growth of the sector due to absence of professionalism and standardization.

5. What are the objectives of the Act ?

The Real Estate is intended to achieve the following objectives:

- ensure accountability towards allottees and protect their interest;
- infuse transparency, ensure fair-play and reduce frauds & delays;
- introduce professionalism and pan India standardization;
- establish symmetry of information between the promoter and allottee;
- imposing certain responsibilities on both promoter and allottees;
- establish regulatory oversight mechanism to enforce contracts;
- establish fast-track dispute resolution mechanism;
- Promote good governance in the sector which in turn would create investor confidence.

PRELIMINARY

6. Who is the 'appropriate Government' as per the Act?

Appropriate government as per act is state government of Andhra Pradesh

7. What are the important responsibilities of the State Government?

The State Government is required to,-

- notify Rules for the implementation of the Act,
- establish the Regulatory Authority,
- designate an officer as interim Regulatory Authority, until the establishment of a full time Regulatory Authority,
- establish the Appellate Tribunal,
- designate an existing Appellate Tribunal (under any other law in force) to be the Appellate Tribunal, until the establishment of a full time Appellate Tribunal,
- appoint the Chairperson and Members of the Regulatory Authority and the Members of the Appellate Tribunal based on recommendation of a selection Committee,
- appoint officers and other employees of Regulatory Authority and the Appellate Tribunal,
- identify office space etc. and other infrastructure for its functioning,
- constitute a 'Real Estate Regulatory Fund'.
- make and launch a website for Regulatory Authority.

8. Does the definition of 'promoter' include public bodies such as Development Authorities and Housing Boards?

The Act covers all bodies (private and public) which develop real estate projects for sale to the general public. Section 2(zk) defines the term 'promoter' which includes both private and public real estate promoters. Thus all Development Authorities, UITs, Municipal bodies, Housing Board, when involved in sale, are covered as Promoter under the Act.

9. Does the definition of 'promoter' includes all promoters in case of joint development?

Yes, as per the Explanation to section 2(zK)"where the person who constructs or converts a building into apartments or develops a plot for sale and the persons who sells apartments or plots are different persons, both of them shall be deemed to be the promoters and shall be

jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made there under".

10. What is the rate of interest payable in case of default by the 'promoter' or the 'allottee'? Is the rate of interest payable by either party (promoter or allottee) the same?

As per the Explanation to section 2(za) the rate of interest payable by either the promoter or the allottee shall be the same. The rate of interest has been specified in Rule 16 of the Andhra Pradesh Real Estate (Regulation and Development) Rules, 2017. Accordingly, the rate of interest is State Bank of India Prime Lending Rate plus 2%.

11. Does advertisement includes solicitation by emails and sms? Is issuance of prospectus considered to be a case of 'advertisement'?

Yes. As per section 2(b), which defines ' advertisement' any medium adopted in solicitation for sale would be covered under the said definition, including SMS and e-mails.

12. Does the term ' allottee' include secondary sales?

Allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;

13. Is 'open parking areas' a part of common areas?

Yes, 'common areas' include open parking area.

14. Is 'community and commercial facilities' which are provided in a real estate project are part of 'common areas'?

Yes 'community and commercial facilities' which are provided in the real estate project are part of common areas.

15. Whether obtaining both the 'occupancy certificate' and the 'completion certificate' are necessary for the promoter?

Yes, as per section 2(zf) and section 2(q) of the Act.

16. What is the difference between the term 'completion certificate' and 'occupancy certificate'?

Section 2 (zf) and section 2(q) respectively, define 'occupancy certificate' and 'completion certificate'. Occupancy certificate relates to the occupation of the apartment/building, which has provision for civic infrastructure such as water, sanitation and electricity and is habitable. Completion certificate relates to the completion of the entire project certifying that the project has been developed according to the sanctioned plan, layout plan and sections, as approved by the competent authority.

17. The Act defines 'estimated cost of the real estate project', what is the significance of the definition?

Section 2(v) defines 'estimated cost of the real estate project', which means "the total cost involved in developing the real estate project and includes the land cost, taxes, cess, development and other charges". The determination of the estimated cost of the real estate project is necessary due to chapter VIII of the Act, which provides that penalties would be imposed on the promoter, for violations prescribed under the Act, based on the estimated cost of the real estate project.

18. What is the definition of 'garage' and can it be sold by the promoter independent of an 'apartment'?

Section 2(y) defines the term 'garage', which can be sold to the allotted independent of the apartment.

19. What is the definition of real estate project? Does the term 'project' cannot be a 'real estate project'?

The term 'real estate project' has been defined under section 2(zn) and the term 'project' has been defined under section 2(zj), which have been interchangeably used under the Act.

20. Are real estate agents covered under the Act? Does the term 'real estate agents' include web-projects engaged in selling of apartment or plots?

Yes, section 2(zm) defines the term 'real estate agents', which is a very broad and inclusive definition and covers all form of agencies involved in sale and purchase of projects, registered under the Act. Consequently, web-portals etc. engaged in selling plots or apartments are also covered under the Act and are required to comply with the duties and responsibilities as provided there in including under the Rules and regulations made thereunder.

21. What happens in case a term is used under the Act but has not been defined?

Section 2(zr) is an omnibus definition which provides that terms which have not been defined under the Act or the Rules and Regulations made there under, would have the same meaning as respectively assigned to them under the relevant municipal law or under any law for the time being in force.

22. Which areas of the State are included in the Planning Area as defined in the Act?

The planning area means a planning area or a development area as specified under the Master plan/Zonal Development Plans.

23. If a real estate project has land area more than 500 sq. meters but containing less than 8 apartments. Does it still need to be registered?

Yes. Every real estate project which has land area more than 500 sq. meters or has more than 8 apartments needs to be registered

24. If a real estate project has land area less than 500 sq. meters but contains more than 8 apartments. Does it still need to be registered?

Yes. Every real estate project which has land area more than 500 sq. meters or has more than 8 apartments needs to be registered

25. Can advertisement be issued for a new project after 1st May, 2017 without registering the said project?

No. The advertisement issued after 1st May 2017 must carry the Registration Number of the project issued by the Authority.

26. Is it permissible to sell parking to allottees?

The position of parking is as follows;

1. Open Parking Area: This has been clearly included in the definition of "Common Areas" which need to be conveyed to the Association of Allottees after Occupancy Certificate is received. Hence, sale or allotment of Open Parking Areas by the Promoter is not permissible
2. Covered Parking is permitted to be sold.
3. Garage as defined in the Act is permitted to be sold.

27. Does Long- term leasehold is excluded from ambit of the Act?

No. The wording in Section 2(d) "has been sold (whether as free hold or lease hold) or otherwise transferred by the promoter" indicates that the long-term lease falls within the ambit of the Act. However, the premises given on short term lease not exceeding five years are not covered under the Act.

28. What is the obligation of the promoter towards return of amount and compensation to the allottee?

Section 18 of the Act provides for provisions as regards various situations in which the allottee would be compensated by the promoter due to delay in completion of the project etc.

29. Is there some fee, in addition to the fees prescribed in the Rules, to be charged from promoters, for uploading on website and online services?

No.

REGISTRATION OF PROJECTS

30. Does the Act cover both residential and commercial real estate?

Yes. The Act covers both residential and commercial real estate. Section 2(e) defines 'apartment' and section 2(i) defines ' building' which include both residential and commercial real estate.

31. Does the Act cover ongoing/incomplete project?

Yes.

32. Which Projects Fall Under the Definition Of "Ongoing Projects"?

For the purpose of this rule “Ongoing Project” means, a Project where development is going on and for which Occupancy Certificate or Completion Certificate has not been issued but excludes such Projects which fulfil any of the following criteria on the date of notification of these rules.

- a) Where roads, open spaces, amenities and services have been handed over to the local authority in layout Projects.
- b) Where all slabs are laid in housing projects.
- c) Where all developmental works have been completed and sale /lease deeds of 50% of the Apartments / Houses/ Plots have been executed
- d) Where development works have been completed and application has been filed to the competent authority for issue of Completion or Occupancy Certificate.

33. Does the Act cover all projects in urban areas and in rural areas?

Section 3(1) provides that all projects within a 'Planning areas' will require to be registered with the Authority and 'planning area' has been defined under section 2(zh). However, section 3(1) second proviso gives powers to the Authority in the interest of 'allottees' to order/direct the promoter to register projects beyond the planning area, which has the requisite permission of the local authority.

34. Which projects are exempted from the ambit of the Act?

As per section 3(2) the following projects do not require to be registered under the Act:

1. Where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be development does not exceed eight, inclusive of all phases. The State Govt. may reduce the threshold below 500 sqm. or 8 apartments.
2. Where the promoter has received completion certificate for a real estate project prior to commencement of the Act, i.e. 1st May, 2017.
3. 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.

35. At what stage can a promoter start to advertise his project for sale?

The promoter can advertise his project for sale after the project has been registered with the Regulatory Authority as provided in section 3(1).

36. What are the details to be furnished at the time of application for registration of real estate project with the Regulatory Authority?

The details to be furnished as as per rule 3-Bof the Andhra Pradesh Real Estate (Regulation and Development) Rules, 2017 approved in GO MS 115 MA dated 27.03.2017. The application for registration shall be filled in Form- A along with Declaration in Form-B. The application fee shall be paid as per rates given in GO MS 642 dated 12.09.2017 of MA.

37. In how many days the Regulatory Authority is required to register the real estate project?

30 days. If the promoter submits the application as specified in the rules.

38. What are the different methods in which the payment of registration fees can be made?

The method of payment of Registration Fees shall be through NEFT or RTGS System at the time of filing of the web based online application or through a demand draft drawn on any scheduled bank in case of submission of the application at the Office of the Authority until the web based online application system is operationalized.

39. In case the application for registration of the real estate project is incomplete, what action should be taken?

If the application for the registration of the project is not complete as required under the Act or the Rules and Regulations made there under, the Authority may give an opportunity to the promoter to complete the application in all respects. However, in case of non-compliance the Authority has the power to reject the application, only after giving an opportunity to the promoter of being heard.

40. Is there a provision for deemed registration of a real estate project in case the Regulatory Authority does not respond to the application?

Yes, section 5 of the Act provides that the Authority has to decide on the application within 30 days of its receipt. It further provides that in case Authority fails to take a decision within the said period of 30 days the project shall be deemed to be registered.

41. What is the period of validity of registration granted to a Real Estate project by the Regulatory Authority?

The registration granted under this section shall be valid for a period declared by the promoter under sub-clause (C) of clause (I) of sub-section (2) of section 4 for completion of the project or phase thereof, as the case may be.

42. Whether applicant-promoter may withdraw his application for registration?

Yes.

43. What other details are to be provided related to registered projects before the expiry of each quarter?

The promoter shall upload the following updates on the webpage for the project, within 7 days from the expiry of each quarter:

- List of number and types of apartments or plots, booked;
- List of number of garages booked;
- Status of the project:
 - Status of construction of each building with photographs;
 - Status of construction of each floor with photographs; and
 - Status of construction of internal infrastructure and common areas with photographs.
- Status of approvals:
 - Approval received;
 - Approvals applied and expected date of receipt;
 - Approvals to be applied and date planned for application; and
 - Modifications, amendment or revisions, if any, issued by the competent authority with regard to any license, permit or approval for the project.

44. Is the promoter required to maintain an escrow account or a separate account? Is a separate account to be maintained for every project or it can be for one or more projects? What are the purposes for which the promoter can withdraw the money from the separate account?

Section 4(2) (1) (D) provides that the promoter shall maintain a separate account for every project undertaken by him where in 70 percent of the money received from the allottee shall be deposited for the purposes of construction and land cost. Section 4(2)(I)(D) clearly provides that the funds can only be used for construction and land cost duly following the procedures' stipulated in the rules.

45. On what basis the promoter is required withdrawing the money from the separate account?

As per section 4(2)(I)(D) first and second proviso, the promoter is required to withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project. In addition, the promoter is permitted to withdraw from the separate account after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project;

46. Is the promoter required to get his accounts audited?

Yes. As per section 4(2)(I)(D) third provision, the promoter is required to get his accounts audited within 6 months after the end of every financial year by a chartered accountant in practice, and shall produce a statement of accounts duly certified and signed by such chartered accountant and it shall be certified during the audit that the amounts collected for a particular project have utilized for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.

47. Is the application for registration of a real estate project, proposed under the Act is manual or it can also be done online?

Section 4 envisages that for a period of one year the application process can be both manual and online based and after one year it is mandatory to make the entire process online. In Andhra Pradesh the web-portal of Regulatory Authority has been established. Henceforth submission of all the applications for registration of projects/agents, complaints, appeals including payments of fees shall be online based.

48. Can the period of registration granted to a real estate project by the Regulatory Authority be extended? What is the definition of force majeure?

Section 6 envisages two situations within which the registration granted to a project can be extended. Extension of registration can be granted in case of force majeure, in addition, it can also be granted under reasonable circumstance, without the fault of the promoter, which shall not be more than a maximum period of 1 year. Explanation to section 6 has defined force majeure to mean a case of war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project.

49. What are the terms and conditions for extension of registration?

The registration may be extended on an application made by the promoter in Form-E prior to the expiry of the registration already granted. The application for extension of registration shall be accompanied with a proof of payment through online mode, for an amount equivalent to

twice of the registration fee as specified under sub-rule (3) of rule 3 of Andhra Pradesh Real Estate(Regulation and development) Rules 2017 along with an explanatory note setting out the reasons for delay in the completion of the project and the need for extension of registration for the project, along with documents supporting such reasons. Provided that where extension of registration is due to force majeure the Authority may at its discretion waive the fee for extension of registration.

50. Can the registration of a project be revoked?

Yes, as per section 7 of the act, the authority has the power to revoke registration of a project

51. What are next steps that can be taken for project completion in case of revocation of a project?

Section 8 of the act, provides for various mechanisms to complete the project in case of revocation of project registration.

52. Is it mandatory for the promoter to obtain permissions for the real estate project before applying for registration to Authority?

Yes.

53. How will a flat buyer know, if the real estate project is duly registered under Regulatory Authority?

The Andhra Pradesh RERA website would display all the registered projects. It is mandatory that the advertisement for marketing of apartments in the real estate project must carry the registration number issued from the Authority.

54. How does the promoter make an application for registration?

All promoters shall make their applications online through Andhra Pradesh RERA website, filling the details in the requisite forms, uploading the required documents and paying the necessary fees through online mode of payment.

55. Is it compulsory for the promoter to register the project immediately after he gets sanctioned approvals?

Yes.

56. Will ongoing Project have to stop sales or construction till receiving the Registration?

Yes, at the end of ninety days from the date of commencement of Section 3 of the Act, i.e. 31st July 2017, the promoter of an ongoing project shall not advertise, market, book, sell or offer for sale or invite persons to purchase in any manner any plot, apartment or building, unless he registers the project.

57. Can promoter change the completion date for ongoing projects while registering?

Yes, while registering project, the promoter needs to give the expected date of completion based on the approval given by the competent authority.

58. If an ongoing project is registered under Regulatory Authority, then will the Act be applicable for the entire project or will it be applicable only to units sold after registration?

Registration is of the Project/Phase and hence the provisions of the Act are applicable to all units of the Project/Phase.

59. There is a provision for deemed registration of a real estate project in case the Regulatory Authority does not respond to the application. How will the promoter receive ID & password?

As per section 5(2) of the Act and 6-A(8) of AP Real estate(R&D) rules 2017, Regulatory Authority shall within a period of 7 days of the deemed registration, provide registration number and a Login Id and password through the registered email Id of the promoter for accessing in the website of the Regulatory Authority and to create his webpage and to fill therein the details of the proposed project.

60. How will the Act, Rules and Regulations affect advertisement of projects with many phases?

A promoter would be allowed to advertise, market, book, sell or offer to sell or invite persons to purchase plot, apartment or building in a phase of a real estate project, only if the said phase is registered. A promoter cannot advertise, commit or sell amenities or facilities that are in a subsequent phase which is still not registered.

61. What if an adjoining land is purchased by the promoter? Can he continue with same registration?

No, it has to be separately registered.

62. What should the promoter do in case the particular brand of fixtures and fittings as mentioned in the specifications are not available in the market since the production of that type is stopped by the supplier? Will the promoter still be liable in such case? And what in case fixture/fittings do not give guarantee for more than five years.

In accordance with section 14 of the Act, the promoter should take previous consent of the concerned allottees. In accordance with the provisions of this section the promoter is also liable to rectify any structural defect etc. within a period of 5 years from the date of possession.

63. Estimated Cost should be submitted only for area for which approvals/plans cleared as on date of registration of project or it should also include costs even for the proposed future expected area to be generated? (Bearing in mind the pros and cons for the figures depending solely on estimated costs)

Estimated cost of the project that has been put up for registration has to be indicated.

FUNCTIONS AND DUTIES OF PROMOTER

64. What are the disclosures to be made on the website of the Regulatory Authority?

Section 4 and section 11 provide for a detailed list of disclosures on the website of the Authority by the promoter for public viewing. Also, the detailed list is specified in Rule 15 of the Rules. The website of Andhra Pradesh RERA is also to be seen.

65. What are the promoter's obligations regarding veracity of the advertisement or prospectus?

As per section 12 the promoter is responsible for the veracity of all information contained in the advertisement and the prospectus. In case of any loss sustained by any person due to false information contained therein, the promoter is liable to make good the loss sustained due to the same.

66. Can the promoter collect any amount of money towards booking of the apartment/plot?

Yes. Section 13 provides that the promoter cannot accept a sum more than 10 percent of the apartment/plot cost as an advance payment/ application fees. For any further collection towards the apartment/plot cost, the promoter is required to enter into an Agreement for sale with the allottee

67. What is the Agreement for sale and is it binding on the promoter and the allottee?

Yes, the format of Agreement for sale to be entered into between the promoter and the allottee has been prescribed as Annexure-A under the Rules. This Agreement is binding on the parties. Internal flexibility as per contractual understanding could be provided in the said Agreement for sale, for determination/ insertion of other provisions as decided between the parties. However, such provisions should not be in derogation of or inconsistent with the terms & conditions of the format of the Agreement or the provisions of the Act and rules/ regulations made thereunder.

68. Can the promoter modify/amend the sanctioned plans or project specification after having been approved by the competent authority and disclosed to the allottees?

As per section 14 of the Act the promoter can only modify/amend the sanctioned plans or project specifications, after the approval of the competent authority and its disclosure to the allottees, in case of minor additions or alterations. However, in case of major modification/alteration, the promoter can modify the sanctioned plans or project specification only after having taken approval from two-third of the allottees. In addition, for arriving at the number of two-third allottees, the number of apartments held by the promoter will be excluded. Also, irrespective of the number of apartments held by an allottee he/she shall only be entitled to one vote.

69. What is the period for which the promoter is liable for any structural defects etc. in the project/apartment etc.?

As per section 14(2) the promoter shall be liable for 5 years from the date of handing over of possession to the allottee towards structural defect or any other defect as specified therein.

70. What is the obligation of the promoter as regard transfer of the project to a third party?

As per section 15 the promoter is not entitled to transfer or assign his majority rights and liabilities in the project to a third party, without obtaining the prior written consent of two-third of allottees and the Regulatory Authority. In addition, for arriving at the number of two-third allottees, the number of apartments held by the promoter will be excluded. Also, irrespective of the number of apartments held by an allottee he/she shall only be entitled to one vote.

71. What is the obligation of the promoter as regards transfer of title of the apartment/plot?

Section 17 of the Act provides for detailed provisions regarding transfer of title of the apartment and the project to the allottee and the association of the allottees respectively.

72. Is the promoter required to give any undertaking to the Regulatory Authority for completing his project within a specified period?

Yes, in accordance with the provisions of the Act, the promoter, while applying for registration to Regulatory Authority, has to give a declaration cum affidavit, indicating the time period within which he undertakes to complete the project or phase thereof, as the case may be.

73. Is there a time limit prescribed for the promoter to execute conveyance in favour of the association of buyers?

Yes, promoter shall execute a registered conveyance deed in favour of the allottee and association as per section 15 & 17

74. How does the Act impact Joint Promoters or joint Venture Agreements or cases of joint development with land owner on revenue share basis or area share basis, where landlord and promoter are two different parties but both are beneficiaries of sale of project?

The Act makes both the promoters and the landlord or any such parties which are beneficiary of a sale of a project and receive payments from allottees as Co-promoters and hence liable to adhere to the provisions of the Act and Rules and Regulations made there under.

75. Can the promoter change the plans of subsequent phases after registration of the 1st phase?

Yes, the promoter can change the plans as per section 14 of the Act

76. If the promoter needs to change the plans of an on-going project post registration, will he need the consent of the pre-registration purchasers?

The Act protects the interest of all the Allottees including those who have executed an agreement before the project is registered under its provisions. Hence, if the promoter wants to change the plans post registration, then consent of all pre-registration allottees shall be required as well.

77. The promoter can hand over the common amenities only after completing subsequent phases. What should he commit to the customer for the registered phase?

A promoter should meticulously plan the buildings of the registered phase & common areas and then declare the individual date of handing over possession of the building & common areas. Each phase along with the development works shall have to complete and handed over to the allottee within the time frame defined by the promoter, during registration, for that phase of the project.

78. Is insurance of the project compulsory? What are the provisions regarding Insurance?

Yes, insurance will be compulsory as per 3-B(Z(CC)) of Andhra Pradesh Real Estate(R&D) rules 2017

79. Can project finance taken by promoters from financial institutions be withdrawn from designated 70% account?

Yes, if this is declared at the time of registration and subject to provisions of Section 4 of the Act and Andhra Pradesh Real Estate (Regulation and Development) Rules, 2017. However, the money withdrawn should be utilized towards project cost.

80. In case of joint development with land owner on revenue share basis or area share basis, whether land owner's component could be withdrawn from designated account of 70%?

The Act makes both the Promoters and the land owner or any such parties which are beneficiary of a sale of a project and receive payments from allottees, as Co-Promoters and hence liable to adhere to the provisions of the Act and Rules and Regulations made there under. The withdrawal of money would be subject to provisions of Section 4 of the Act and Rules made there under.

81. If due to a change in government policy, the promoter is entitled to additional FSI etc., can the promoter build additional floors in a registered ongoing project where initially those floors were not planned?

Yes, but consent of allottees would be needed as mentioned in section 14 of the Act.

82. While withdrawing money from the account as per provisions of section 4 (2) (1) (D), does the promoter need to submit the certificates to Banker or retain with him?

The original certificates have to be retained by the promoter because the same are required to be verified and audited by the statutory auditor of the promoter's company at the end of every financial year. Copies may also have to be submitted to the concerned bank, if demanded by bank.

83. Can escrow account opened with the Bank from whom loans are availed by the promoter, be treated as Separate Bank Account for a registered project.

No. A separate bank account needs to be opened in accordance with the provisions of the Act and rules made there under.

84. Can separate account be more than one, since at times there might be multiple lenders in same project (building wise lender) though developer might register the project at one go.

No. There should be one designated bank account for every registered project or registered phase of a project.

85. Sometimes buyer is ready and gives undertaking that he is ok to give money beyond 10% however does not want to register. Should it be allowed?

No. Section 13(1) of the Act prohibits the promoter from taking more than 10% of the cost of apartment without entering into a written agreement for sale, duly registered.

86. In case of customers default, can promoter be selective in cancelling units?

Provision of termination of agreement is covered in the Form of Agreement for Sale (Annexure -A) attached to Andhra Pradesh Real Estate (Regulation and Development) Rules, 2017.

RIGHTS AND DUTIES OF ALLOTTEES

87. If the registration of a real estate project is revoked for any reason, how will the interest of the buyer, in such project, be protected by Regulatory Authority?

Regulatory Authority will take action in accordance with section 8 of the Act.

88. In case of delay in getting possession from the promoter, will the buyer be entitled to get interest on the amount paid by him, for such delayed period?

Yes.

89. Will such interest payment by the promoter to the buyer be automatic or the buyer will have to approach Regulatory Authority?

The interest payment is in accordance with the Agreement for Sale and hence should be automatically paid. The buyer may have to file a complaint to Regulatory Authority if there is a grievance.

90. What are the provisions for an aggrieved person to lodge a complaint before the Authority?

Section 31 of the Act and Rule 48 of Andhra Pradesh Real Estate (Regulation and Development) Rules, 2017 provide for filing of complaint with Regulatory Authority, by an aggrieved person. The aggrieved person can file an application online as per Form-M prescribed under the Rules.

THE REAL ESTATE AGENTS- THEIR REGISTRATION, DUTIES AND RESPONSIBILITIES

91. Does the Act also cover real estate agents?

Yes.

92. What is the manner for registration of real estate agents?

The mechanisms for registration, the fees payable, the period of registration, subsequent renewal, rejection of application for registration, revocation etc. are as per Rule 10 of Andhra Pradesh Real Estate (Regulation and Development) Rules, 2017

93. For which period the registration of real estate agent shall be valid?

The registration granted to a real estate agent shall be valid upto five years.

94. Whether registration of real estate agent can be renewed? What is the manner and fees for renewal?

Yes, the real estate agent can be renewed.

The application fees for renewal shall be paid through online mode at the time of online submission of application, for a sum of Rs. 5,000/- in case of the real estate agent being an individual or Rs. 25,000/- in case of the real estate agent being anyone other than an individual.

The real estate agent shall also submit all the updated documents as required for new registration as set out in clauses (a) to (f) of sub-rule (1) of rule 10. The renewal granted shall be valid for a period of five years.

95. Whether registration of a real estate agent can be revoked?

Yes.

96. Whether the registration of a real estate agent is valid for a particular place or for a particular project or for throughout the State?

The Authority shall grant a single registration to the real estate agent for the entire State, but the promoter has to specify the name of the real estate agent who will attend the particular project.

97. In case the Authority does not respond to the application for registration, whether the real estate agent shall be deemed as registered after a certain period?

Yes. Where, on the completion of the period of thirty days, if the applicant does not receive any communication about the deficiencies in application for registration or the rejection of such application, the real estate agent shall be deemed to be registered.

98. Existing customers referring to others for buying the flat in same project or another project of same promoter. Will they be treated as Real Estate Agent?

Yes, if any person/agent who refers any transaction by receiving remuneration or any charges are required to register with the authority. The procedure is as specified in section 2(zm) of the Act.

99. For Foreign brokers registration and advertisement outside India, will same rule apply as in India?

Yes, if it pertains to a registered project under the Regulatory Authority.

100. What is the procedure to obtain registration to operate as Real Estate Agents? What are documents required to get real estate agent's license?

The procedure as specified in Rule 10 & 11 of Andhra Pradesh Real estate (Regulation and Development) Rules 2017.

101. What is the fee for registration? What is the duration?

The fees are in accordance with GO MS no 642 dated 12/09/2017 and GO MS No648 dated 14/07/2017 Rule 10(2) of the Andhra Pradesh Real Estate (Regulation and Development) Rules, 2017. The registration is valid for a period of five years

102. Will marketing and sales staff of Builder/ Promoter/ Developer also need to take registration as an agent?

A real estate agent is clearly defined in Section 2(zm) of the Act.

103. Is registration of a Real Estate Agent is transferable to another agent or to other state where agents intend to shift his office?

No

104. Even if real estate agent has not taken any commission from client and taken it from promoter, can the agent still be responsible and liable for builder's default?

The agent's liability is in accordance with Section 10 of the Act.

105. Are the provisions of the Act protect Agents for their commissions not paid by builder or by parties to the deal?

No.

106. Will agent be responsible till the delivery of flats / real estate unit done or is he responsible till documents are registered?

The responsibility of the real estate agent will be in accordance with Section 10 of the Act.

107. What are unfair trade practices of a Real Estate Agent?

It is explained in Section 10 (c) of the Act.

108. What if promoter gives false information or documents to real estate agent and agent acts upon such information, will he be liable?

Under Section 12 of the Act, it is the obligation of the promoter regarding veracity of advertisement and prospectus. The agent is liable if he makes a false or misleading representation concerning the services that he intends to offer.

109. Will listing websites / newspapers/ exhibitions promoting real estate needs to take agents' license?

Yes, if they intend to facilitate the sale or purchase of or act on behalf of any person to facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a registered real estate project being sold by the promoter in any planning area.

110. Will real estate agents putting advertisement on builders' behalf need to get approved his print / radio/ TV/ other media promotions content?

No, real estate agent should not give any such advertisements on behalf of the promoter.

111. Will a multi-state operator of real estate agency business need to apply in all state of India?

For working as a real estate agent in Andhra Pradesh, registration will be given by the Andhra Pradesh Real Estate Regulatory Authority .

112. Is Agent authorized to sign on behalf of his promoter / builder?

No.

THE REAL ESTATE REGULATORY AUTHORITY

113. Whether the regulatory authority for Andhra Pradesh has been established?

Yes.

114. How are the Chairman and the Members of the Authority required to be appointed?

The Chairman and the Members of the Authority required to be appointed on the recommendations of a selection committee.

115. What is the eligibility for the appointment of the Chairman and the Members of the regulatory Authority?

The eligibility criteria are mentioned in section 22 of the act and Rule 18 of the Andhra Pradesh Real Estate (Regulation and Development) Rules, 2017

116. How can a complaint be filed with the Authority for any violations under the Act?

Section 31 of the Act and Rule 44 of the Andhra Pradesh Real Estate (Regulation and Development) Rules, 2017, provides for filing of complaint by an aggrieved with the Regulatory Authority.

117. What is the time period within which the Authority is required to dispose of any matter that is brought to it for consideration?

Section 29 provides that the Authority should endeavour to dispose of the questions/complaints as expeditiously as possible but not later than sixty days from the date of filing the same.

118. Can a promoter or a real estate agent also file complaint against a buyer?

Yes. An aggrieved person having any interest in the registered real estate project can file complaint.

119. Where will the aggrieved home buyer be required to file his complaint?

The aggrieved person can file an application online or offline as per prescribed Form-M provided by Andhra Pradesh Real Estate Regulatory Authority website.

120. On what grounds can the home buyer file a complaint?

An aggrieved person may file a complaint with Regulatory Authority for any violation or contravention of the provisions of the Act or the Rules or Regulations made there under.

121. Who will take action on complaints?

The Regulatory Authority will take action on complaints.

122. Is there any time limit prescribed for the promoter for formation of society or any other legal entity of home buyers?

Promoter has to enable formation of Association of Allottees like Cooperative Society, Company, Association, Federation etc. within three months of the majority of allottees having booked their plot or apartment or building, as the case may be, in the project.

123. Can an allottee who has executed agreement with the promoter prior to the on-going project getting registered with the Authority, be a complainant before the Regulatory Authority?

Regulatory Authority empowers any aggrieved person to file a complaint with respect to a registered real estate project.

THE REAL ESTATE APPELLATE TRIBUNAL

124. Whether the Real Estate Appellate Tribunal has been established under the Act?

As per section 43 of the Act, Appellate Tribunal is required to be established by the State Government.

125. Can an appeal be filed against the decision or the orders of the Appellate Tribunal?

As per section 58 of act, any person aggrieved by the decision or order of the Appellate Tribunal can file and appeal with the High Court.

126. What is the time period within which the Appellate Tribunal is required to dispose of the appeal?

Section 44 provides that the Appellate Tribunal should endeavour to dispose of the appeal as expeditiously as possible as but not later than sixty days from filling the appeal. However, where the same could not be disposed of during the said period the Appellate Tribunal is required to record its reasons for the same.

127. How are the Chairman and the Members of the Appellate Tribunal required to be appointed?

The Chairman and the Members of the Appellate Tribunal required to be appointed as per section 46

OFFENCES, PENALTIES AND ADJUDICATION

128. What is the punishment prescribed for non-registration of a project under the Act?

As per section 59, where under the Act, it is obligatory for the promoter to register a project with the Authority, and the promoter fails to do the same, he shall be liable to a penalty upto ten percent of the estimated cost of the real estate project. however, in case the promoter consistently defaults or does not comply with the directions/orders of the Authority as regarding registration of the project with the Authority, he shall be liable to additional fine of ten percent of the estimated cost of the real estate project or imprisonment upto 3 years or both.

129. What is the punishment prescribed for violation of section 4 which provides for application for registration of the project?

As per section 60 if the promoter defaults as regards matters covered under section 4, he shall be liable to a penalty upto five percent of the estimated cost of the real estate project.

130. What is the punishment prescribed for violation of other provisions of the Act by the promoter?

As per section 61 if the promoter defaults any other provision of the Act or the Rules and Regulations made thereunder, he shall be liable to a penalty upto five percent of the estimated cost of the real estate project.

131. What is the punishment prescribed for non-compliance of the orders of the Authority by the promoter?

As per section 63 if the promoter fails to comply with the order of the Authority he shall be liable to a penalty for every day of default, which may cumulatively extended up to five percent of the estimated cost of the real estate project.

132. What is the punishment prescribed for non-compliance of the orders of the Appellate Tribunal by the promoter?

As per section 63 if the promoter fails to comply with the orders of the Appellate Tribunal, he shall be liable to a penalty for every day of default, which may cumulatively extended up to ten percent of the estimated cost of the real estate project or with imprisonment for a term which may extend up to three years or with both.

133. What is the punishment prescribed for non-registration of by a real estate agent under the Act?

As per section 62, where under the Act, it is obligatory for the real estate agent to register himself with the Authority, and the real estate agent fails to do the same, he shall be liable to a penalty of rupees ten thousand per day of default, which may be cumulatively extended up to five percent of the cost the plot/ apartment/building, for which the sale/purchase has been facilitated by him.

134. What is the punishment prescribed for non-compliance of order of the Authority by the real estate agent?

As per section 65, if the real estate fails to comply with the orders of the Authority he shall be liable to a penalty for every day of default, which may be cumulatively extended up to five percent of the cost of the plot/apartment/ building, for which the sale has been facilitated by him.

135. What is the punishment prescribed for non-compliance of the orders of the Appellate Tribunal by the real estate agent?

As per section 66 if the real estate agent fails to comply with the order of the Appellate Tribunal, he shall be liable to penalty for every day of default, which may be cumulatively extended up to ten percent of the cost of the plot/apartment/ building, for which the sale has been facilitated by him or with imprisonment for a term which may extend upto one year or with both.

136. What is the punishment prescribed for non-compliance of the orders of the Authority by the allottee?

As per section 67 if the allotted fails to comply with the orders of the Authority he shall be liable to a penalty for every day of default, which may be cumulatively extended up to five percent of the cost of the plot/apartment/building.

137. What is the punishment prescribed for non-compliance of the orders of the Appellate Tribunal by the allottee?

As per section 68 if the allottee fails to comply with the orders of the Appellate Tribunal, he shall be liable to a penalty for every day of default, which may be cumulatively extended up to five percent of the cost of the plot/apartment/ building or with imprisonment for a term which may extend upto one year or with both.

138. Can an offence which provides for imprisonment be compounded?

As per section 70 if person is punishable with imprisonment under the Act, the same may be compounded on such terms and conditions which has been prescribed in rule 37 of the Rules, which cannot be more than the maximum fine payable for that offence.

139. What is the role of the Adjudicating Officer?

The Adjudication Officer is a quasi-judicial person who is mandated to adjudicate on disputes arising under section 12, 13, 18 and section 19. The Adjudicating Officer shall be a person who is or has been a District Judge.

140. What are the factors that need to be considered by the Adjudicating Officer while deciding a dispute under sections 12, 13, 18 and 19 of the Act?

The Adjudicating Officer shall, while deciding the disputes under section 12, 13, 18 and 19 of the Act, have regard to the amount of disproportionate gain or unfair advantage, the amount of disproportionate gain or unfair advantage, the amount of loss, repetitive nature of the default and such other factors that the Adjudicating Officer may consider necessary in furtherance of justice.

MISCELLANEOUS

141. Are the civil courts and consumer forums barred from entertaining disputes under the Act?

As per section 79 of the Act civil courts are barred from entertaining disputes (suits or proceedings) in respect of matters which the Authority or the adjudicating officer or the Appellate Tribunal is empowered under the Act to determine. However, the consumer forums (National, State or District) have not been barred from the ambit of the Act.

Section 71 provision permits the complainant to withdraw his complaint as regards matters under section 12,13, 18 and section 19 from the consumer forum and file it with the adjudicating officer appointed under the Act.

142. Can a complainant approach both the Regulatory Authority/ adjudicating officer and the consumer forums for the same disputes?

The laws of the country do not permit forum shopping, thus, an aggrieved can only approach one of the two for disputes over the same matter.

143. Can the Authority delegate any of its functions under the Act?

As per section 81, the Authority is empowered to delegate such of its powers and functions under the Act to any Member, officer or any other person subject to conditions specified in the order issued for the same. However, the Authority cannot delegate the responsibility of making Regulations under section 85 under the Act.

144. Whether the Regulations has been notified by the Authority under the Act?

As per section 85 of the Act, Regulations are required to be notified by the Regulatory Authority within 3 months of its establishment.

145. Are the Rules, Regulations etc. notified required to laid before the Parliament or the State Legislature?

As per section 86 every Rule, Regulation, notification issued by the appropriate Government or the Authority, is required to be laid before the Parliament or the State Legislature, as the case may be.

146. Does the Government have the power to issue orders towards Removal of difficulties while implementing the Act?

The Central Government, under section 91, has been empowered to notify orders towards removal of difficulties while implementing the Act. However, such removal of difficulties order cannot be issued after the expiry of a period of two years since its commencement. The Central Government vide its notification dt.28.10.2016 has issued such order namely, "the Real Estate (Regulation and Development) Removal of Difficulties Order, 2016" which has been published in Gazette of India on dt.28.10.2016.

147. What is the composition of the Central Advisory Council?

The Central Advisory Council, to be headed by the Union Minister for Housing, is a multi-member body comprising of representatives of specified Central Minister, five representatives of State Governments to be selected by rotation, five representatives of Regulatory Authorities

to be selected by rotation and any other central government department as notified. The Central Advisory Council is also required to have representatives of consumers, real estate industry, real estate agents, construction laborers, NGOs, and academic/research institutions.

148. What is the role and responsibility of the Central Advisory council?

The Central Advisory council is required to advise the Central Government of matters relating to implementation of the Act, questions of policy, protection of consumer interest, foster growth and development of the estate sector and other matters as may be assigned to it by the Central Government.



DISCLAIMER

The above provided information/details are with reference to the Real Estate (Regulation and development) Act ,2016 and Andhra Pradesh Real Estate (Regulation and Development) rules,2017.