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# TSMT UPDATE

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## Real Estate Regulatory & Development Act,2016 [RERA]

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### Foreword

The **Real Estate (Regulation and Development) Act, 2016** (Hereinafter referred as **RERA**) is an Act of the Parliament of India which seeks to protect home-buyers as well as help boost investments in the real estate industry.

The Act will come into force with all its sections notified from 1st May, 2017. This Bill was passed by the Rajya Sabha on 10th March 2016 and by the Lok Sabha on 15th March 2016. The Act came into

force from 1st May 2016 with 59 out of 92 sections notified. The Central and State Governments are liable to notify the Rules under the Act within a statutory period of six months. This law extends to whole of India except for the state of Jammu & Kashmir.

This law vests authority on the real estate regulator to govern both residential and commercial real estate transactions.

### Salient Features

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- ◆ Every project measuring more than 500 square meters ( 5381.96 Sq. Feet) or more than eight apartments inclusive of all phases will have to be registered under RERA.
- ◆ This Act obliges the developer to park 70% of the project funds in a dedicated bank account.
- ◆ The current practice of selling on the basis of ambiguous super built-up area for a real estate project will come to a stop as this law makes it illegal. Carpet area has been clearly defined in the law.
- ◆ The developer cannot make any changes to the plan that had been sold without the written consent of the buyer.

- ◆ This law ensures that any delay in project completion will make the developer liable to pay the interest at such rate as notified by the Act.
- ◆ The buyer can contact the developer in writing within five years of taking possession to demand after sales service, if any deficiency in the project is noticed. It shall be the duty of the developer to rectify such defects within 30 days of such demand.
- ◆ It establishes the State Real Estate Regulatory Authority for that particular state as the government body to be approached for redressal of grievances against any builder.
- ◆ This law makes it mandatory for developers to post all information on issues such as project plan, layout, government approvals, land title status, sub contractors to the project, schedule for completion with the State Real Estate Regulatory Authority (RERA) and then in effect pass this information on to the consumers.
- ◆ The maximum imprisonment term for a developer who violates the order of the appellate tribunal of the RERA is three years with or without a fine.

**Benefits of RERA to the DEVELOPER**

- ◆ Common and best practices
- ◆ Consolidation of sector
- ◆ Increased efficiency
- ◆ Corporate branding
- ◆ Higher investment
- ◆ Increase in Organization funding

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**Registration under RERA**

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**Commercial and Residential projects including Plotted Development**

**Land under development with area more than 500 Sq.Mts or number of units exceeding 8**

**Projects which do not have completion certificate before commencement of the Act.**

**Note:**

**1. In case of projects that are ongoing on the date of commencement of this Act, and for which completion certificate has not been issued, the developer shall obtain registration within the period of three months from the date of commencement of this Act.**

**2. Renovation or Repair or Redevelopment projects not involving marketing, advertising, selling and new allotment need not be registered under this Act.**

## Impact of Real Estate Regulation Act on the Developers

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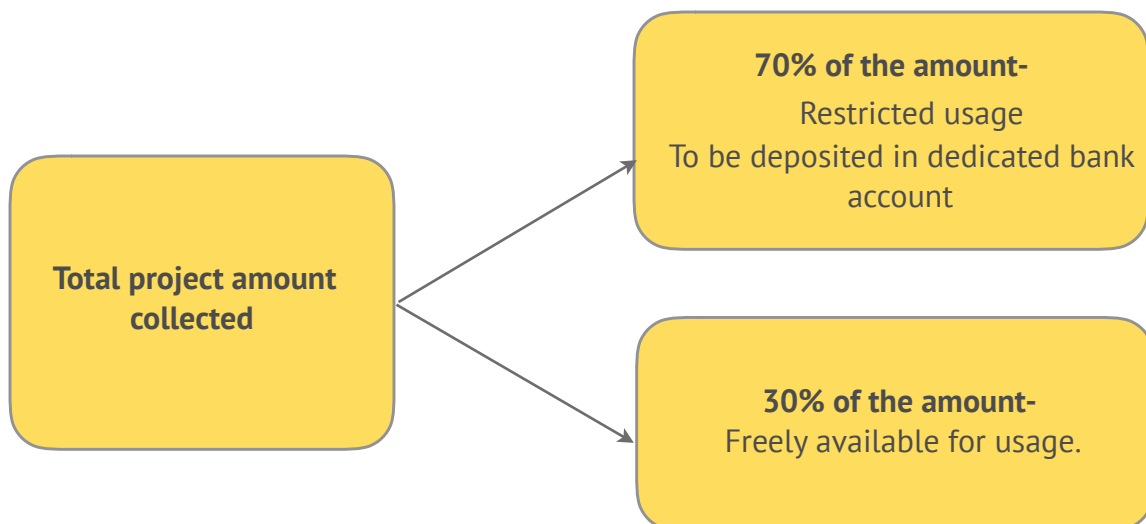
### Registration of a Real Estate project

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- Minimum threshold for projects registration is 500 Sq.Mts or 8 units, however this can be tightened by states.
  - In case where the project is proposed to be developed in phases, each of such phases has to be registered separately.
  - Registration is available for a certain time period as stipulated by the developer with maximum 1 year extension.
  - No marketing or sales without registration.
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### Project account

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Withdrawals from 70% of amount collected, parked in dedicated bank account should be in stages in proportion to percentage of completion of the project and such withdrawals to be certified by Chartered Accountant in practice, an Engineer and an Architect.

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### Additions and Alterations in a project

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#### MINOR CHANGE:

Authorized by Architect or Engineer and inform allottees.

#### MAJOR CHANGE:

Approval of all the allottees of that unit affected by change.

#### OTHER CHANGES:

Approval of 2/3rd of the allottees.

***Note: In case of approval of other changes, a person holding multiple units in his name or in the name of his family, will be considered as a single allottee.***

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### Sale on the basis of carpet area

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- Carpet Area refers to net usable floor area of an apartment and includes area covered by the internal walls, excludes the area covered by the external walls, areas under service shafts, exclusive balcony, verandah or open terrace area.
- ◆ The current practice of selling on the basis super built area has been replaced with carpet area and any sales made on the basis of super built area will be considered illegal under RERA.

## Advertisements

- No advertising and marketing before registration. However, in case of projects that have already obtained Completion and occupancy certificates, can continue to be advertised and sold.
- Any advertisement published by a developer must mention the website address of RERA, where all the details about the project have been entered including the Registration Number.
- Any loss to the allottee due to incorrect or false information included in the advertisement must be compensated by the Promoter. Further, buyer may withdraw his investment along with interest if he is affected by such misstatement.

### Procedure for obtaining Registration under RERA:

1. Promoter should submit the application for Registration to the Regulatory Authority.
2. Upon receipt of application, the Regulatory Authority shall grant or reject the registration within 30 days.
3. Upon registration, the promoter will be provided with Registration number, user ID and password for updating the details of the project on the website.
4. If the Regulatory Authority fails to accept or reject the application within 30 days, the project is deemed to be registered.

## Interest liability to Developers

Interest liability of the Developer in case of inability to handover possession of the property as per the agreement:

*In case the allottee, demands for repayment of amount invested -*

Developer will be required to refund or pay compensation to the allottees with an interest rate of SBI's highest marginal cost of lending rate plus 2%.

*In case the allottee, does not demand for repayment of amount invested -*

Interest is payable by the developer for every month of delay, till the handing over of the possession of property, at a prescribed rate.

## Offices:

### Bangalore (Head office)

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Jayanagar 2nd Block  
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### Hyderabad

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