

Real Estate Bill 2016 - PDF Capsule

The Indian Parliament recently unanimously cleared the much-delayed Real Estate Bill 2016. Formally known as the Real Estate (Regulation and Development) Bill 2016, it is expected to promote fair play in real estate transactions and to ensure timely execution of projects. This will both, protect home-buyers and give the real estate sector a much needed boost. This is expected to revive the sector infamous for delays, shortcomings, overpricing and worse.

There is little doubt that the Real Estate Bill 2016 is the right move in an industry where builders often take money from unsuspecting consumers (usually middle class) and use them in fraudulent ways.

Why is the Real Estate Bill 2016 needed?

- Buyers holding back money due to lack of confidence in the Indian real estate market.
- Buyers avoid getting into legal battles with developers.
- Projects being endlessly delayed and possession not given on time.
- Builders not compensating for delayed possession, but levying penalties on buyers for delayed payments.
- Arbitrary changes in layout plans and the actual construction turning out to be different from the advertised project.
- **Land Hoarding:** Money collected for one project being diverted to fund other projects or buy different lands. It results in scarcity of land and hence escalates land prices.

Key Features of the Bill

General Points of the bill

- The bill will regulate both commercial and residential real estate projects.
- It seeks to set up Real Estate Regulatory Authority (RERA) to oversee real estate transactions.
- It will also help establish state-level RERAs.
- It makes registration of real estate projects and real estate agents mandatory.



- It mandates that builders upload details of all registered projects, layout plans, land status, approvals, agreements along with details of real estate agents, contractors, architect, structural engineer etc. on the website of the RERAs.

Rules for Builders/Promoters

- All commercial and residential real estate projects with land over 500 square metres, or having 8 apartments, must be registered with RERA.
- Builders must maintain 70% of the amount collected for the project in a separate **escrow account** and use it ONLY for the construction of the said project. However, individual state governments can alter this amount to less than 70% in their particular state. **Escrow** is a temporary account held by a 3rd party during transaction between 2 parties.
- Builders need to specify a timeframe of the project, or else they have to pay penalties.
- It stops promoters from changing plans and design without consent of two-thirds of the consumers.
- The Bill defines carpet area of a property as 'net usable floor area', excluding the area covered by its external walls, under shafts, balconies and terraces.
- Builders to be responsible for fixing structural defects for 5 years after transferring the property to a buyer.

Dispute Settlements

- The bill seeks to establish fast track dispute resolution mechanisms through adjudicating officers and Appellate Tribunal.
- It bars civil courts from taking up real estate matters. However, consumer courts are allowed to hear such matters.

Fast-tracking

- Allow RERAs to direct state govt. to establish a **single window system** for providing clearances for projects.
- A time limit should be specified for state and local authorities **to issue completion certificates**.



Penalties

- *If promoter does not register his property:* Penalty up to 10% of the project cost.
- *If promoter dodges order issued by the RERA:* Imprisonment for up to 3 years, and/or an additional fine of 10% of the estimated project cost.
- *If promoter provides false information:* Penalty up to 5% of the estimated project cost.
- *If promoter violates any other provision of the act:* Penalty up to 5% of the estimated project cost.
- Fine for the agents is INR 10,000 per day during the period of violation of provisions.

Real Estate Regulatory Authority(RERA)

- Established at state levels.
- All projects of 500 sq. m. and above need to be registered with RERA.
- All real estate agents need to be registered with RERA
- Details of the project must be uploaded on RERA website
- It will be empowered to punish or prosecute developers
- It enforces the contract between developer and buyers
- It is a forum for customers to register their grievances
- Complaints have to be disposed in 60 days

Real Estate Appellate Tribunals

- Established at state levels
- Decisions of RERA can be appealed in this tribunal
- It has to adjudicate cases in 60 days.
- It will consist of a chairperson and two members, one with a judicial background and one with a technical background.

Impact of the bill on the Real Estate Industry

- Ensures efficiency and transparency in all property related transactions.



- Improves accountability of the developers and protects consumer interest.
- Promotes fair-play and timely execution of the projects.
- Helps in differentiating a good developer from a bad one.
- **Single window clearance** will aid faster execution of the projects.
- Boosts positive sentiments among the buyers and will in turn bring more FDI.
- Timely completion will result in increase in supply of homes and help bring down prices.
- Overall boost to the economy as housing sector has many backward and forward linkages with other industries.
 - Backward Linkages: steel, cement and other building materials
 - Forward Linkages: furniture and furnishings, electrical and electronics, interior decoration.
- Creation of more employment opportunities.
- It will help achieve government's ambitious plan of '**Housing for All by 2020**'.
- It will help curb black money as real estate sector constitutes about 11% of GDP and is particularly vulnerable to black money through underreporting of transaction prices while paying taxes.

Conclusion

The real estate bill is anticipated to bring on a stimulating modification in how various stakeholders revamp their structural capabilities and boost investors' confidence in the realty sector. However, it'll take time before the real estate regulator becomes a reality, as states have to be compelled to follow up once it gets presidential assent.

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