

**GOVERNMENT OF WEST BENGAL
LEGISLATIVE DEPARTMENT**

West Bengal Act XVII of 1972

**THE WEST BENGAL APARTMENT (REGULATION
OF CONSTRUCTION AND TRANSFER) ACT, 1972.**

[Passed by the West Bengal Legislature.]

[Assent of the President was first published in the *Calcutta Gazette*,
Extraordinary, of the 5th July, 1972.]

[5th July, 1972.]

An Act to regulate the construction and transfer of apartment.

WHEREAS it is expedient to regulate the construction and transfer of apartment;

It is hereby enacted in the Twenty-third Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. (1) This Act may be called the West Bengal Apartment (Regulation of Construction and Transfer) Act, 1972.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of West Bengal.

(3) This section shall come into force at once; and the remaining provisions of this Act shall come into force in such areas, and on such dates as the State Government may, by notification in the *Official Gazette*, appoint; and different dates may be appointed for different areas.

2. This Act applies only to an apartment, the promoter in respect of which executes and submits a Declaration before a Competent authority in such manner as may be prescribed that he intends to submit the property wherein the apartment is or is to be located to the provisions of the West Bengal Apartment Ownership Act, 1972.

Application
of the Act,

West Ben.
Act XVI of
1972.

3. In this Act, unless the context otherwise requires,—

Definitions.

(1) (a) "Declaration" means the instrument by which the property is submitted to the provisions of this Act;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "promoter" means a person who has already constructed or intends to construct apartments for the purpose of selling them to other persons and includes the Government;

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(Sections 4, 5.)

- (2) the expressions "apartment", "building", "Competent authority" and "property" shall have the same meanings assigned to them respectively in the West Bengal Apartment Ownership Act, 1972.

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General
liabilities of
promoters.

4. Any promoter who intends to sell an apartment, shall, on demand by an intending transferee—

- (a) make full and true disclosure in writing of the nature of his interest in the land on, and the building, if any, in which the apartments are or are to be constructed;
- (b) make full and true disclosure in writing of all encumbrances, if any, affecting such land or building;
- (c) disclose and give inspection of the plans and specifications of the entire building of which the proposed apartments form part and furnish copies thereof;
- (d) disclose in writing the nature of fixtures, fittings and amenities which have been or are proposed to be provided;
- (e) disclose in writing the particulars as respects the materials which have been or are proposed to be used in the construction of the building together with the details of all agreements entered into by him with the architects and contractors;
- (f) specify in writing the date by which possession of the apartment is to be handed over to such transferee;
- (g) supply in writing a list of all the apartments which have already been taken or agreed to be taken, together with their distinctive numbers, names and addresses of the transferees either actual or intended, the prices paid or charged by or upon them and any other particulars as may be prescribed;
- (h) make a full and true disclosure in writing of all outgoings including ground rent if any, municipal or other local taxes, taxes on income, water charges and electricity charges, revenue assessment, interest on any mortgage or other encumbrances, if any, in relation to the land, building and the apartments;
- (i) make a full and true disclosure in writing of such other information and documents including true copies of such documents as may be prescribed.

Agreement
to precede
advance
payment.

5. Notwithstanding anything contained in any other law, a promoter who intends to transfer any apartment shall, before accepting any sum from an intending transferee as advance payment or deposit, enter into a written agreement for sale with such transferee which shall be registered as a document compulsorily registrable under clause (b) of sub-section (1) of section 17 of the Registration Act, 1908.

16 of 1908.

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(Sections 6—9.)

6. After the plans, specifications and the nature of the fixtures, fittings and amenities are disclosed to an intending transferee under section 4 the promoter shall not make any alteration therein—

No additions or alterations after disclosure of plans, etc.

- (i) if it affects a single apartment, without the previous consent in writing of that transferee who intends to take the said apartment, and
- (ii) if it affects more than one apartment, without the previous consent in writing of all the transferees who intend to take those apartments.

7. Any promoter who knowingly makes a false disclosure in respect of any of the matters referred to in clauses (a), (b), (g) or (h) of section 4 or contravenes the provisions of section 6, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees, or with both.

Offences by promoter.

8. (1) If the promoter committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to such punishment as provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to, any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) “company” means a body corporate and includes a firm or other association of individuals; and
- (b) “director” in relation to a firm means a partner in the firm.

9. The State Government may make rules for carrying out the purposes of this Act.

Power to make rules.

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(Sections 10—12.)

Indemnity.

10. No suit or other legal proceedings shall lie against the Government and no suit, prosecution or other legal proceedings shall lie against any officer or servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Bar to jurisdiction.

11. No Court shall take cognizance of any offence under this Act except on complaint made with the previous sanction of the Competent authority.

Power to remove difficulties.

12. If any difficulty arises in giving effect to the provisions of this Act, the State Government may make such order or do such things, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.