The Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963

Act 45 of 1963

Keyword(s):
Flat, Promoter, Registrar, Apartment and Apartment Owner

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THE MAHARASHTRA OWNERSHIP FLATS (REGULATION OF THE PROMOTION OF CONSTRUCTION, SALE, MANAGEMENT AND TRANSFER) ACT, 1963.

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MAHARASHTRA ACT No. XLV OF 1963.[1]

[THE MAHARASHTRA OWNERSHIP FLATS (REGULATION OF THE PROMOTION OF CONSTRUCTION, SALE, MANAGEMENT AND TRANSFER) ACT, 1963.]

[Received the assent of the President on the 12th day of December 1963 ; assent first published in the *Maharashtra Government Gazette*, Part IV, on the 16th day of December 1963.]

Amended by Mah. 29 of 1964.
" " " 1 of 1966.
" " " 2 of 1968.
" " " 11 of 1970.
" " " 15 of 1971.
" " " 5 of 1973.
" " " 53 of 1974 (1-1-1975).*
" " " 66 of 1977.
" " " 1 of 1979.
" " " 9 of 1981.

An Act to regulate for a certain period, in the State of Maharashtra, the promotion of the construction of, the sale and management, and the transfer of flats on ownership basis.

WHEREAS, it has been brought to the notice of the State Government that, consequent on the acute shortage of housing in the several areas of the State of Maharashtra, sundry abuses, malpractices and difficulties relating to the promotion of the construction of, and the sale and management and transfer of flats taken on ownership basis exist, and are increasing ;

AND WHEREAS, the Government in order to advise itself as respects the manner of dealing with these matters, appointed a committee by Government Resolution in the Urban Development and Public Health Department No. S. 248-79599-F, dated the 20th May 1960, to inquire into and report to the State Government on the several matters referred to aforesaid with the purpose of considering measures for their amelioration ;

AND WHEREAS, the aforesaid Committee has submitted its report to Government in June 1961, which report has been published for general information ;

AND WHEREAS, it is now expedient after considering the recommendations and suggestions made therein, to make provision during the period of such shortage of housing, for the regulation of the promotion of the construction, sale and management and transfer, of flats taken on ownership basis in the State of Maharashtra ; It is hereby enacted in the Fourteenth Year of the Republic of India as follows :—

Short title, extent, commencement and duration.

1. (*1*) This Act may be called the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963.

(*2*) It extends to the whole of the State of Maharashtra.

(*3*) This section shall come into force at once; and the remaining provisions of this Act shall come into force in [2][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.

(*4*) This Act shall remain in force upto and inclusive of the 31st day of March [3][1982] and shall then expire.

Bom. I of 1904.

(*5*) Section 7 of the Bombay General Clauses Act, 1904, shall apply upon the expiry of this Act, as if it had then been repealed by a Maharashtra Act.

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*This indicates the date of commencement of Act.

[1] For Statement of Objects and Reasons, *see Maharashtra Government Gazette*, 1963, Part V, page 117.

[2] Greater Bombay on 10th day of February 1964 [*vide* G. N., U. D. & P. H. D., No. FOB. 1062/432-Unification (*a*), dated 8th February 1964].

[3] These figures were substituted for the figures " 1981 " by Mah. 9 of 1981, s. 2.

Definitions.

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

(*a*) " Flat " means a separate and self contained set of premises used or intended to be used for residence, or office, or show-room or shop or godown (and includes a garage), the premises forming part of a building [1][and includes an apartment].

Explanation.—Notwithstanding that provision is made for sanitary, washing, bathing or other conveniences as common to two or more sets of premises, the premises shall be deemed to be separate and self-contained ;

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

(*c*) " promoter " means a person who constructs or causes to be constructed a block or building of flats [2][or apartments] for the purpose of selling some or all of them to other persons, or to a company, co-operative society or other association of persons, and includes his assignees; and where the person who builds and the person who sells are different persons, the term includes both.

(*d*) " Registrar " means the Registrar as defined in the Maharashtra Co-operative Societies Act, 1960, or, as the case may be, in the Companies Act, 1956 ; Mah. XXIV of 1961. I of 1956.

(*e*) to construct a block or building of flats [2][or apartments] includes to convert a building or part thereof into flats [2][or apartments] ;

[3][(*f*) the expressions, " apartment " and apartment owner " shall have the meanings, respectively assigned to them in the Maharashtra Apartment Ownership Act, 1970.] Mah. XV of 1971.

General liabilities of promoter.

3. (*1*) Notwithstanding anything in any other law, a promoter who intends to construct or constructs a block or building of flats, all or some of which are to be taken or are taken on ownership basis, shall in all transactions with persons intending to take or taking one or more of such flats , be liable to give or produce, or cause to be given or produced, the information and the documents hereinafter in this section mentioned.

(*2*) A promoter, who constructs or intends to construct such block or building of flats, shall—

(*a*) make full and true disclosure of the nature of his title to the land on which the flats are constructed, or are to be constructed, such title to the land as aforesaid having been duly certified by an Attorney-at-law, or by an Advocate of not less than three years standing :

(*b*) make full and true disclosure of all encumbrances on such land, including any right, title, interest or claim of any party in or over such land ;

(*c*) give inspection on seven days' notice or demand, of the plans and specifications of the building built or to be built on the land; such plans and specifications having been approved by the local authority which he is required so to do under any law for the time being in force ;

(*d*) disclose the nature of fixtures, fittings and amenities (including the provision for one or more lifts) provided or to be provided ;

(*e*) disclose on reasonable notice or demand if the promoter is himself the builder, the prescribed particulars as respects the design and the materials to be used in the construction of the building, and if the promoter is not himself the builder disclose, on such notice or demand, all agreements (and where there is no written agreement, the details of all agreements) entered into by him with the architects and contractors regarding the design, materials and construction of the buildings ;

[1] These words were added by Mah. 15 of 1971, Sch.
[2] These words were inserted, *ibid.*
[3] Clause (*f*) was added, *ibid.*

(*f*) specify in writing the date by which possession of the flat is to be handed over (and he shall hand over such possession accordingly) ;

(*g*) prepare and maintain a list of flats with their numbers already taken or agreed to be taken, and the names and addresses of the parties, and the price charged or agreed to be charged therefor, and the terms and conditions if any on which the flats are taken or agreed to be taken ;

(*h*) state in writing, the precise nature of the organisation of persons to be constituted and to which title is to be passed, and the terms and conditions governing such organisation of persons who have taken or are to take the flats ;

(*i*) not allow persons to enter into possession until a completion certificate where such certificate is required to be given under any law, is duly given by the local authority (and no person shall take possession of a flat until such completion certificate has been duly given by the local authority) ;

(*f*) specify in writing the date by which possession of the flat is to be handed over (and he shall hand over such possession accordingly);

(*g*) prepare and maintain a list of flats with their numbers already taken or agreed to be taken, and the names and addresses of the parties, and the price charged or agreed to be charged therefor, and the terms and conditions if any on which the flats are taken or agreed to be taken;

(*h*) state in writing, the precise nature of the organisation of persons to be constituted and to which title is to be passed, and the terms and conditions governing such organisation of persons who have taken or are to take the flats;

(*i*) not allow persons to enter into possession until a completion certificate where such certificate is required to be given under any law, is duly given by the local authority (and no person shall take possession of a flat until such completion certificate has been duly given by the local authority);

(*j*) make a full and true disclosure 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;

(*k*) make a full and true disclosure of such other information and document; in such manner as may be prescribed; and give on demand true copies of such of the documents referred to in any of the clauses of this sub-section as may be prescribed at a reasonable charge therefor.

Promoter before accepting advance payment or deposit to enter into agreement and agreement to be registered.

4. Notwithstanding anything contained in any other law, a promoter who intends to construct or constructs a block or building of flats, all or some of which are to be taken or are taken on ownership basis, shall, before he accepts any sum of money as advance payment or deposit, which shall not be more than 20 per cent. of the sale price enter into a written agreement for sale with each of such persons who are to take or have taken such flats, and the agreement shall be registered under the Indian Registration Act, 1908 and such agreement shall contain the prescribed particulars; and to such agreement there shall be attached, such documents or copies thereof, in respect of such matters, as may be prescribed.

XVI of 1908.

Promoter to maintain separate account of sums taken as advance or deposit and to be trustee therefor and disburse them for purposes for which given.

5. The promoter shall maintain a separate account in any bank of sums taken by him, from persons intending to take or who have taken flats, as advance or deposit, including any sums so taken towards the share capital for the formation of a co-operative society or a company, or towards the outgoings (including ground rent if any, municipal or other local taxes, taxes on income, water charges, electricity charges, revenue assessment, interest on any mortgage or other encumbrances if any); and he shall hold the said moneys for the purposes for which they were given and shall disburse the moneys for those purposes and shall on demand in writing by an officer appointed by general or special order by the State Government for the purpose, make full and true disclosure of all transactions in respect of that account.

Responsibility for payment of outgoings till property is transferred.

6. A promoter shall, while he is in possession, and where he collects from persons who have taken over flats or are to take over flats sums for the payment of outgoings even thereafter, pay all outgoings (including ground rent, municipal or other local taxes, taxes on income, water charges, electricity charges, revenue assessment, interest on any mortgage or other encumbrances, if any), until he transfers the property to the persons taking over the flats, or to the organisation of any such persons.

After plans and specifications are disclosed no alterations or additions without consent of persons who have agreed to take the flats; and defects noticed within a year to be rectified.

7. (*1*) After the plans and specifications of the building, as approved by the local authority as aforesaid, are disclosed or furnished to the person who agrees to take one or more flats, the promoter shall not make—

(*i*) any alterations in the structures described therein in respect of the flat or flats which are agreed to be taken, without the previous consent of that person; or

(*ii*) make any other alterations in the structure of the building, or construct any additional structures, without the previous consent of all the persons who have agreed to take the flats.

(*2*) Subject to sub-section (*1*), the building shall be constructed and completed in accordance with the plans and specifications aforesaid; and if any defect in the building or material used, or if any unauthorised change in the construction is brought to the notice of the promoter within a period of one year from the date of handing over possession, it shall wherever possible be rectified by the promoter without further charge to the persons who have agreed to take the flats, and in other cases such persons shall be entitled to receive reasonable compensation for such defect or change. Where there is a dispute as regards any defect in the building or material used, or any unauthorised change in the construction, [1][or as to whether it is reasonably possible for the promoter to rectify any such defect or change, or as regards the amount of reasonable compensation payable in respect of any such defect or change which cannot be, or is not, rectified by the promoter,] the matter shall, on payment of such fee as may be prescribed, be referred for decision to the Housing Commissioner appointed under the Bombay Housing Board Act, 1948 if the building is situated in the Bombay or Hyderabad area and to the Housing Commissioner appointed under the Madhya Pradesh Housing Board Act, 1950 if the building is situated in the Vidarbha region of the State, or to any officer not lower in rank than a Superintending Engineer as the State Government may by general or special order specify in this behalf, within a period of two years from the date of handing over possession. The Housing Commissioner or such officer shall after inquiry record his decision, which shall be final. Bom. XLIX of 1948. M. P. XLIII of 1952.

Refund of amount paid with interest for failure to give possession within specified time or further time allowed.

8. If—

(*a*) the promoter fails to give possession in accordance with the terms of his agreement of a flat duly completed by the date specified, or any further date or dates agreed to by the parties, or

(*b*) the promoter for reasons beyond his control and of his agents, is unable to give possession of the flat by the date specified, or the further agreed date and a period of three months thereafter, or a further period of three months if those reasons still exist,

then, in any such case, the promoter shall be liable on demand (but without prejudice to any other remedies to which he may be liable) to refund the amounts already received by him in respect of the flat (with simple interest at nine *per cent. per annum* from the date he received the sums till the date the amounts and interest thereon is refunded), and the amounts and the interest shall be a charge on the land and the construction if any thereon in which the flat is or was to be constructed, to the extent of the amount due, but subject to any prior encumbrances.

No mortgage etc., to be created without consent of parties after execution of agreement for sale.

9. No promoter shall, after he executes an agreement to sell any flat, mortgage or create a charge on the flat or the land, without the previous consent of the persons who take or agree to take the flats, and if any such mortgage or charge is made or created without such previous consent after the agreement referred to in section 4 is registered, it shall not affect the right and interest of such persons.

[1] These words were deemed always to have been inserted by Mah. 11 of 1970, s. 3.

Promoter to take steps for formation of co-operative society or company.

10. [1][(*1*)] As soon as a minimum number of persons required to form a co-operative society or a company have taken flats, the promoter shall within the prescribed period submit an application to the Registrar for registration of the organisation of persons who take the flats as a co-operative society or, as the case may be, as a company : and the promoter shall join, in respect of the flats which have not been taken, in such application for membership of a co-operative society or as the case may be of a company. Nothing in this section shall affect the right of the promoter to dispose of the remaining flats in accordance with the provisions of this Act.

(*2*) If any property consisting of building or buildings is constructed or to be constructed [2][and the promoter submits such property to the provisions of the Maharashtra Apartment Ownership Act, 1970, by executing and registering a Declaration as provided by that Act] then the 'promoter shall inform the Registrar as defined in the Maharashtra Co-operative Societies Act, 1960, accordingly ; and in such cases, it shall not be lawful to form any co-operative society or company.

Mah. XV of 1971.

Mah. XXIV of 1961.

[3]* * *

Promoter to convey title, etc., and execute documents, according to agreement.

11. A promoter shall take all necessary steps to complete his title and convey, to the organisation of persons, who take flats, which is registered either as a co-operative society or as a company as aforesaid, or to an association of flat-takers [4][or apartment owners] his right, title and interest in the land and building, and execute all relevant documents therefor in accordance with the agreement executed under section 4 and if no period for the execution of the conveyance is agreed upon, he shall execute the conveyance within the prescribed period and also deliver all documents of title relating to the property which may be in his possession or power.

General liabilities of flat-taker.

12. (*1*) Every person who has executed an agreement to take a flat shall pay at the proper time and place the price, his proportionate share of the Municipal taxes, water and electricity charges, ground rent (if any) and other public charges in accordance with his agreement with the promoter; and where a co-operative society or a company of persons taking the flats is to be constituted, co-operative in the formation of such society or company, as the case may be.

(*2*) Any person who has executed an agreement to take a flat and who, without reasonable excuse, fails to comply with or contravenes sub-section (*1*) shall, on conviction, be punished with fine which may extend to two thousand rupees.

Manager not to cut off, withhold, curtail or reduce essential supply or service.

[5][**12A.** (*1*) No person, who is a promoter, or who is in charge of management or connected with the management of a block or building of flats, whether as member of a managing committee, director, secretary or otherwise, or is responsible for the maintenance thereof (hereinafter in this section referred to as "the manager") shall, without just and sufficient cause, either by himself or through any person, cut off withhold, or in any manner curtail or reduce, any essential

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[1] Section 10 was renumbered as sub-section (*1*) of that section and sub-section (*2*) was added by Mah. 15 of 1971, Sch.

[2] This portion was substituted for the portion beginning with "and the apartment takers propose to submit" and ending with "as required by that Act" by Mah. 53 of 1974, s. 6(*a*).

[3] The words "and each apartment owner shall be entitled to the exclusive ownership and possession of his apartment as provided in the first mentioned Act", were deleted, *ibid.*, s. 6(*b*).

[4] These words were inserted by Mah. 15 of 1971, Sch.

[5] Section 12A was inserted by Mah. 29 of 1964, s. 2, Section 4 of Mah. 29 of 1964, reads as under:—

Retrospective effect and saving.

"4. The amendments made by sections 2 and 3 shall be deemed to have been inserted in the principal Act and shall be deemed to have come into force in Greater Bombay, on the 10th day of February 1964 ; but nothing therein shall render any person liable to be convicted of any offence in respect of any act or omission committed by him before the commencement of this Act, if such act was not an offence under the principal Act, at that date, but for the provisions herein inserted. But if any person has cut off, withheld or in any manner curtailed or reduced, any essential supply of service in respect of any flat at any time before the commencement of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) (Amendment) Act, 1964, and continuous or allows the continuance thereof after such commencement he shall be liable to the penalties provided in the aforementioned section 2."

Mah. XXIX of 1964.

supply or service enjoyed by the person who has taken a flat (or by any person in occupation thereof through or under him) in respect of the flat taken or agreed to be taken by him.

(*2*) The person who has taken or agreed to take the flat or the occupier may, if the manager has contravened the provisions of sub-section (*1*), make an application to the Court or a direction to restore such supply or service.

(*3*) If the Court on enquiry finds that the applicant or the person through or under whom he is in occupation has been in enjoyment of the essential supply or service, and that it was cut off or withheld or curtailed or reduced by the manager without just and sufficient cause, the Court shall make an order directing the manager to restore such supply or service before a date to be specified in the order.

(*4*) The manager who fails to restore the supply or service before the date so specified, shall for each day during which the default continues thereafter, be liable upon a further direction by the Court to that effect, to fine which may extend to one hundred rupees.

(*5*) Notwithstanding anything contained in any law for the time being in force,—

(*a*) in Greater Bombay, the Court of Small Causes, Bombay,

(*b*) in any area for which a Court of Small Causes is established under the Provincial Small Cause Courts Act, 1887, such Court, and IX of 1887.

(*c*) elsewhere, the Court of the Civil Judge (Senior Division),

shall have jurisdiction to decide any application made under sub-section (*2*), and no other Court shall have jurisdiction to entertain such application. No appeal shall lie from any order made on such application ; but in Greater Bombay a bench of two Judges of the Court of Small Causes, Bombay, which shall not include the Judge who made such order, and elsewhere the District Court, may for the purpose of satisfying itself that the order made was according to law, call for the case in which such order was made and the bench or Court aforesaid or the District Judge or any Judge to whom the case may be referred by the District Judge, shall pass such order with respect thereto as it or he thinks fit.

(*6*) Any manager who contravenes the provisions of sub-section (*1*) shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

(*7*) The offence under sub-section (*6*) shall be cognizable, and shall not be triable by any Court inferior to that of a Presidency Magistrate, or a Magistrate of the First Class.

Explanation I.—In this section, essential supply or service includes the supply of water, electricity, lights in passages and on stair-cases, and lifts and conservancy or sanitary service.

Explanation II.—For the purposes of this section, withholding any essential supply or service shall include acts or omissions attributable to the manager on account of which the essential supply or service is cut off by the local authority or any other competent authority.]

Offences by promoter.

13. Any promoter who, without reasonable excuse, fails to comply with or contravenes any provision of this Act or of any rule made thereunder shall [1][where no other penalty is expressly provided for,] 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 ; and a promoter who commits criminal breach of trust of any amount advanced or deposited with him for the purposes mentioned in section 5 shall, on conviction, be punished with imprisonment for a term which may extend to four years, or with fine, or with both.

[1]These words were inserted by Mah. 29 of 1964, s. 3, *See* also footnote 3 on p. 7185.

Offences by companies.

14. (*1*) If the person 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 business by 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 :

Provided that, nothing contained in this sub-section shall render any such person liable to such punishment 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 also 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.

Power to make rules.

15. (*1*) The State Government may, subject to the condition of previous publication, by notification in the *Official Gazette*, make rules for carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) under section 3, the particulars as respects the design and the materials to be used in the construction of the building and the other information and documents to be disclosed, the manner in which disclosure to be made and the documents of which true copies shall be given by the promoter ;

(*b*) under section 4, the particulars to be contained in the agreement for sale and the documents or copies thereof to be attached to such agreement ;

(*c*) under section 10, the period within which the promoter shall submit an application for registration of a co-operative society or a company ;

(*d*) under section 11, the period within which the promoter shall execute the conveyance ;

(*e*) any other matter which has to be, or may be, prescribed by rules.

(*3*) Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and it, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Act to be in addition to Transfer of Property Act and to over-ride contract to the contrary.

16. The provisions of this Act, except where otherwise provided, shall be in addition to the provisions of the Transfer of Property Act, 1882, and shall take effect notwithstanding anything to the contrary contained in any contract. IV of 1882.

Application of certain provisions to flats already in existence.

17. As respects flats which on the commencement of this Act have already been constructed, or converted, the provisions of sections 2, 6, 8, 9, 10, 11, 12, 13, 14, 15 and 16 apply with the following modifications, that is to say—

(*a*) in section 2, in clause (*c*), the words "means a person who constructs" shall be read as if the words "means a person who has constructed" had been substituted ;

(*b*) in section 8, if the date specified or agreed to has already passed at the commencement of this Act, then the promoter shall give possession within three months from such commencement of this Act ; and if for any reasons beyond his control and of his agent, the promoter has been unable to give possession of the flat within three months from such commencement, he shall give possession thereof within a period of three months thereafter, or a further period of three months if those reasons still exist ; and thereafter the promoter shall be liable on demand to refund the amounts on the terms and conditions provided in the said section ;

(*c*) in section 9, the words and figure "after the agreement referred to in section 4 is registered" shall be read as if the words "after the commencement of this Act" had been substituted ;

(*d*) in section 10, the words "As soon as a minimum number of persons required to form a co-operative society or a company have taken flats, the promoter shall within the prescribed period" shall be read as if the words "Where then minimum number of persons required to form a co-operative society or a company have taken flats, the promoter shall within three months from the commencement of this Act" had been substituted ;

(*e*) in section 11, the words and figure "in accordance with the agreement executed under section 4" shall be read as if the words "in accordance with any agreement made in respect thereof" had been substituted and the words "within the prescribed period" shall be read as if the words "within three month from the commencement of this Act" had been substituted.

Act not to apply to Housing Boards.

18. Nothing in this Act shall apply to the Maharashtra Housing Board and the Vidarbha Housing Board.

असा. क्र. ६ रजिस्टर्ड नं. एमएच/एमआर/साऊथ-२२९/२००६-०८

महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

सोमवार, फेब्रुवारी २५, २००८/ फाल्गुन ६, शके-१९२९

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) (Amendment) Act, 2005 (Mah. Act No. IV of 2008), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,
Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. IV OF 2008.

(First published, after having received the assent of the President in the "Maharashtra Government Gazette", on the 25th February 2008).

An Act further to amend the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963.

WHEREAS it is expedient further to amend the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963, for the purposes hereinafter appearing; it is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :—

Mah. XLV of 1963.

1. This Act may be called the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) (Amendment) Act, 2005. Short title.

[किंमत : रुपये १५.००]

Amendment of section 2 of Mah. XLV of 1963.

2. In section 2 of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963 (hereinafter referred to as "the principal Act"),— Mah. XLV of 1963.

(*a*) clause (*a*) shall be renumbered as clause (*a-1*) thereof, and before clause (*a-1*) as so renumbered, the following clause shall be inserted, namely :—

"(*a*) "Competent Authority" means a Competent Authority appointed under section 5A ;";

(*b*) in clause (*c*) "for the words", "promoter means a person" the following words shall be substituted, namely :—

"'promoter' means a person and includes a partnership firm or a body or association of persons, whether registered or not":

Amendment of section 5 of Mah. XLV of 1963.

3. In section 5 of the principal Act, for the words "an officer appointed by general or special order by the State Government for the purpose" the words "a Competent Authority" shall be substituted.

Insertion of section 5A in Mah. XLV in 1963. Competent Authority.

4. After section 5 of the principal Act, the following section shall be inserted, namely :—

"**5A.** The State Government may, by notification in the *Official Gazette* appoint an officer, not below the rank of the District Deputy Registrar of Co-operative Societies, to be the Competent Authority, for an area or areas to be specified in such notification and different officers may be appointed as Competent Authority for different local areas, for the purposes of exercising the powers and performing the duties under sections 5, 10 and 11 of this Act.".

Amendment of section 10 of Mah. XLV of 1963.

5. In section 10 of the principal Act, in sub-section (*1*), the following provisos shall be added at the end, namely :—

"Provided that, if the promoter fails within the prescribed period to submit an application to the Registrar for registration of society in the manner provided in the Maharashtra Co-operative Societies Act, 1960, the Competent Authority may, upon receiving an application from the persons who have taken flats from the said promoter, direct the District Deputy Registrar, Deputy Registrar or, as the case may be, Assistant Registrar concerned, to register the society : Mah. XXIV of 1961.

Provided further that, no such direction to register any society under the preceding proviso shall be given to the District Deputy Registrar, Deputy Registrar or, as the case may be, Assistant Registrar, by the Competent Authority without first verifying authenticity of the applicants' request and giving the concerned promoter a reasonable opportunity of being heard.".

Amendment of section 11 of Mah. XLV of 1963.

6. Section 11 of the principal Act shall be renumbered as sub-section (*1*) thereof and after sub-section (*1*) as so renumbered, the following sub-sections shall be inserted, namely :—

"(*2*) It shall be the duty of the promoter to file with the Competent Authority, within the prescribed period, a copy of the conveyance executed by him under sub-section (*1*).

(*3*) If the promoter fails to execute the conveyance in favour of the Co-operative society formed under section 10 or, as the case may be, the Company or the association of apartment owners, as provided by sub-section (*1*), within the prescribed period, the members of such Co-operative society or, as the case may be, the Company or the association of apartment owners may, make an application, in writing, to the concerned Competent Authority accompanied by the true copies of the registered agreements for sale, executed with the promoter by each individual member of the society or the Company or the association, who have purchased the flats and all other relevant documents (including the occupation certificate, if any), for issuing a certificate that such society, or as the case may be, Company or association, is entitled to have an unilateral deemed conveyance, executed in their favour and to have it registed.

(*4*) The Competent Authority, on receiving such application, within reasonable time and in any case not later than six months, after making such enquiry as deemed necessary and after verifying the authenticity of the documents submitted and after giving the promoter a reasonable opportunity of being heard, on being satisfied that it is a fit case for issuing such certificate, shall issue a certificate to the Sub-Registrar or any other appropriate Registration Officer under the Registration Act, 1908, certifying that it is a fit case for enforcing unilateral

16 of 1908.

execution of conveyance deed conveying the right, title and interest of the promoter in the land and building in favour of the applicant, as deemed conveyance.

(*5*) On submission by such society or as the case may be, the Company or the association of apartment owners, to the Sub-Registrar or the concerned appropriate Registration Officer appointed under the Registration Act, 1908, the certificate issued by the Competent Authority alongwith the unilateral instrument of conveyance, the Sub-Registrar or the concerned appropriate registration Officer shall, notwithstanding anything contained in the Registration Act, 1908, issue summons to the promoter to show cause why such unilateral instrument should not be registered as 'deemed conveyance' and after giving the promoter and the applicants a reasonable opportunity of being heard, may, on being satisfied that it was fit case for unilateral conveyance, register that instrument as 'deemed conveyance'.".

16 of 1908.

16 of 1908.

Amendment of section 13 of Mah. XLV of 1963.

7. In section 13 of the principal Act,—

(*a*) "in sub-section (*3*), for the portion beginning with the words "with an imprisonment" and ending with the words "or with both", the following shall be substituted, namely :—

"with imprisonment for a term which shall not be less than six months but which may extend to one year or with fine which shall not be less than Ten Thousand rupees but which may extend to Fifty Thousand rupees or with both.";

(*b*) after sub-section (*3*), the following sub-sections shall be added, namely :—

"(*4*) When any promoter is convicted of any offence under this Act, except offence under section 12A, such promoter shall be disqualified from undertaking construction of flats for a period of five years from the date of such conviction. However, such disqualification shall not affect the permission for construction of flats already granted before incurring such disqualification and shall also not debar the promoter from seeking or being granted any additional requisite permissions which may be required from the concerned local authorities for completion of constructions already undertaken by him.

(*5*) The Competent Authority shall, on such conviction of a promoter under this Act, subject to the orders of the appellate court, if any, or after the expiry of the appeal period, forward the name of the convicted promoter to the local authorities under his jurisdiction, with a direction that such promoter shall not be granted permission under the relevant law for undertaking any construction of flats during the period of such disqualification, specifically mentioning such period.

(*6*) On receiving such intimation from the Competent Authority, notwithstanding anything contained in any other law for the time being in force, the concerned local authority shall not grant such promoter any permission or licence under the relevant law for construction of flats for a period for which the promoter is so disqualified.";

(*c*) in the marginal note, after the word "promoter" the words "and consequences on conviction" shall be inserted.

Insertion of sections 13B, 13C, 13D and 13E in Mah. XLV of 1963.

8. After section 13A of the principal Act, the following *sections shall be inserted, namely*:—

Competent Authority to be public servant.

"**13B.** The Competent Authority shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Proceedings before Competent Authority to be judicial proceedings.

13C. All proceedings before a Competent Authority shall be deemed to be the judicial proceedings for the purposes of sections 193 and 228 of the Indian Penal Code. 45 of 1860.

Competent Authority deemed to be Civil Court for certain purposes.

13D. Every Competent Authority shall be deemed to be a Civil Court for the purposes of sections 345 and 347 of the Code of Criminal Procedure, 1973. 2 of 1974.

Indemnity for acts done in good faith.

13E. No suit, prosecution or any other legal proceedings shall lie against any competent Authority in respect of anything which is in good faith done or purported to be done by him under this Act.".

शासकीय मध्यवर्ती मुद्रणालय, मुंबई

असा. क्र. ७ रजिस्टर्ड नं. एमएच/एमआर/साऊथ-२२९/२००६-०८

महाराष्ट्र शासन राजपत्र

असाधारण
प्राधिकृत प्रकाशन

गुरुवार, फेब्रुवारी २८, २००८/फाल्गुन ९, शके १९२९

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

ERRATUM

In the English Translation of Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) (Amendment) Act, 2005 (Mah. IV of 2008), published in the *Maharashtra Government Gazette*, Extraordinary, Part VIII, dated the 25th February 2008, at pages 23-27, on page 24, in line 10, *for* " " for the words ", " promoter " *read* ", for the words " " promoter" ".

शासकीय मध्यवर्ती मुद्रणालय, मुंबई

असा. क्र. ४५ रजिस्टर्ड नं. एमएच/एमआर/साऊथ-२२९/२००६-०८

महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

सोमवार, मे १२, २००८/वैशाख २२, शके १९३०

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) (Amendment) Act, 2008 (Mah. XXIII of 2008), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,
Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. XXIII OF 2008.

(First published, after having received the assent of the Governor, in the "Maharashtra Government Gazzate" on the 12th May 2008.)

An Act further to amend the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963.

Mah. XLV of 1963.

WHEREAS it is expedient further to amend the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963, for the purposes hereinafter appearing; it is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :—

1. This Act may be called the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) (Amendment) Act, 2008. Short title.

Amendment of section 3 of Mah. XLV of 1963.

2. In section 3 of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963, in sub-section (2), after clause (*m*), the following clause shall be added, namely :— Mah. XLV of 1963.

"(*n*) sell flat on the basis of the carpet area only.:

Provided that, the promoter may separately charge for the common areas and facilities in proportion to the carpet area of the flat.

Explanation.—For the purposes of this clause, the carpet area of the flat shall include the area of the balcony of such flat.".

शासकीय मध्यवर्ती मुद्रणालय, मुंबई

RNI No. MAHENG /2009/35528

सत्यमेव जयते

महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ११, अंक ४८(१४)] बुधवार, डिसेंबर ३१, २०२५/पौष १०, शके १९४७ [पृष्ठे ३, किंमत : रुपये २७.००

असाधारण क्रमांक १३०

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (*3*) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) (Amendment and Validation) Act, 2025 (Mah. Act No. LXV of 2025), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

SUPRIYA DHAWARE,
Draftsman-*cum*-Joint Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT NO. LXV OF 2025.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on 31st December 2025).

An Act further to amend the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963.

WHEREAS it is expedient further to amend the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963, for the purposes hereinafter appearing; it is hereby enacted in the Seventy-sixth Year of the Republic of India as follows :-

Mah. XLV of 1963.

1. This Act may be called the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) (Amendment and Validation) Act, 2025. Short title.

2. After section 1 of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963 (hereinafter referred to as "the principal Act"), the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st May 2016, namely :- Insertion of new section 1A in Mah. XLV of 1963.

Mah. XLV of 1963.

Application of Act.

"1A. This Act shall not apply to the real estate projects to which the Real Estate (Regulation and Development) Act, 2016 is applicable, except sections 5A, 11A, 13B, 13C, 13D and other provisions relating to the Competent Authority. ". 16 of 2016.

Amendment of section 5A of Mah. XLV of 1963.

3. In section 5A of the principal Act, for the word and figures "and 11" the figures, word and letter ", 11 and 11A" shall be substituted and shall be deemed to have been substituted with effect from the 1st May 2016.

Insertion of new section 11A in Mah. XLV of 1963.

4. After section 11 of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st May 2016, namely :-

Deemed conveyance.

"11A.(*1*) Where the promoter of a real estate project which is registered under the Real Estate (Regulation and Development) Act, 2016 fails to execute a registered conveyance deed in favour of the allottee or the association of allottees under section 17 thereof and sub-rules (*2*) and (*3*) of rule 9 of the Maharashtra Real Estate (Regulation and Development) (Registration of real estate projects, Registration of real estate agents, rates of interest and disclosure on website) Rules, 2017, then, the allottee or the association of allottees shall be entitled to have a unilateral deemed conveyance executed in their favour similar to the conveyance as provided under the said section 17 and to have it registered and for that purpose, may apply alongwith relevant documents to the Competent Authority as per the procedure specified in sub-section (*3*) of section 11 of this Act. 16 of 2016.

(*2*) The provisions of sub-sections (*4*) and (*5*) of section 11 and relevant provisions of unilateral deemed conveyance under this Act shall *mutatis mutandis* apply to such applications for grant of deemed conveyance.".

Validation and savings.

5. Notwithstanding anything contained in any judgement, decree or order of any court or authority to the contrary or anything done or purporting to have been done or any action taken or purporting to have been taken or any proceedings instituted under any provision of the principal Act, before the commencement of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) (Amendment and Validation) Act, 2025, including any notification, order, notice or circular issued or rules made or deemed conveyance executed and registered, decisions taken, any proceedings instituted or orders passed or directions issued by the Competent Authority or the concerned Registration Officer as per the provisions of the principal Act, shall be deemed to be and shall be deemed always to have been duly and validly issued, made, executed, registered, taken, done or instituted, in accordance with the law as if the provisions of the principal Act, as amended by this Act, had been continuously in force at all material times and accordingly, no suit, prosecution or other legal proceedings shall lie in any court or before any tribunal or other authority on the ground that, the provisions of the said principal Act prior to such commencement did not provide for unilateral deemed conveyance in respect of real estate projects registered under the Real Estate (Regulation and Development) Act, 2016. Mah. LXV of 2025. 16 of 2016.

Power to remove difficulties.

6. (*1*) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by this Act, the State Government may, as occasion arises, by an order published in the *Official Gazette*, do anything, not inconsistent with the provisions of the principal Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that, no such order shall be made after expiry of the period of two years from the date of commencement of this Act.

(*2*) Every order made under sub-section (*1*) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

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