

# Select Committee Report Summary

## Amendments proposed to the Real Estate (Regulation and Development) Bill, 2013

- The Rajya Sabha Select Committee examining the amendments to the Real Estate (Regulation and Development) Bill, 2013 submitted its report on July 30, 2015. The Committee had been constituted on May 6, 2015.
- The Bill regulates transactions between buyers and promoters of residential real estate projects. It was introduced in Rajya Sabha in August 2013. It was referred to the Standing Committee on Urban Development in September 2013, and the Committee submitted its report in February 2014. Following this, the government circulated several amendments to the Bill. The Select Committee was established to examine the Bill with the proposed amendments. Key observations and recommendations of the Select Committee include:
  - **Applicability of the Bill:** The 2013 Bill required registration for residential real estate projects that: (i) are more than 1000 sq mts in area, or (ii) entail the construction of more than 12 apartments. The amendments proposed to require registration for residential, commercial and industrial projects. The Committee recommends that the area of land and the number of flats to be exempted from registration should be reduced.
  - **Use of funds collected from buyers:** The 2013 Bill required that 70% of the amount collected from buyers must be used only for construction purposes. The amendments proposed to reduce this limit to 50% or higher. The Committee recommends that: (i) the promoter should withdraw money from a separate account in proportion to the completion of the project, (ii) this amount can be withdrawn after it is certified by an engineer, architect, and a chartered accountant, and (iii) the promoter must get his account audited within six months after close of every financial year.
  - **Carpet area:** The 2013 Bill defined carpet area as the net usable floor area of an apartment, excluding the area covered by the walls. The amendments defined net usable floor area as the rentable area as defined by the National Building Code, 2005. The Committee recommends that the definition of carpet area should not be linked to the National Building Code, 2005. Carpet area should be defined as the net usable floor area of an apartment, excluding the area covered by external walls, balcony or verandah area or any open terraces, but including the internal walls.
- **Promoter:** Under the 2013 Bill, the definition of promoter includes a buyer who purchases real estate in bulk for resale. The proposed amendments added that a person, who holds in his name, two or more apartments or plots, in the same project, and puts them for resale can also be a promoter. The Committee rejects the amendment, suggesting that such a person cannot be treated as the promoter. The intent of the definition should be to ensure that front companies are not created to escape the Bill.
- **Completion certificate:** The 2013 Bill defines completion certificate as a certificate issued by the competent authority permitting occupation of any building. The 2015 amendments propose to include occupation certificate in the definition. The Committee recommends that completion certificate and occupation certificate should be defined separately, as the two terms have different meanings.
- **Term of office of regulatory authority:** Under the 2013 Bill, the Chairperson and members of the regulatory authority shall hold office for a five year term, or until they attain the age of 65 years, whichever is earlier. The amendments propose that the Chairperson and members shall hold office for a three year term, or until they attain the age of 65 years, whichever is earlier, and shall be eligible for attainment. The Committee recommends that the original provision for five years should be retained and reappointment should be barred.
- **Other definitions:** The amendments proposed that any term used but not defined in the Bill will have the same meaning as defined in the National Building Code, 2005 or the municipal laws. The Committee recommends that any references to the National Building Code may be removed.
- **New provisions:** The Committee recommends that a promoter should bear all liabilities till flat is transferred in the name of allottee. There should be a provision to change the promoter during the tenure of the project, with the consent of 2/3<sup>rd</sup> of the allottees.

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