

Karnataka Real Estate (Regulation and Development) Rules-2017 were approved by the State Cabinet and notified on 10th July, 2017 and will come into effect from the date of their publication in the Official Gazette. The draft rules were earlier published on 24th October, 2016 for review and comments from the public and have been discussed and deliberated upon by the Government over the past few months. As per these rules, the promoters and real estate agents will mandatorily have to register with the Real Estate Regulatory Authority.

- I. As per Section 3 of the Real Estate (Regulation and Development) Act, 2016, issued by Government of India, “no promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building as the case may be in any real estate project or part of it in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act”.
- II. The Real Estate (Regulation and Development) Act, 2016, is available at www.mhupa.gov.in
The Karnataka Real Estate (Regulation and Development) Rules, 2017 is available at www.housing.kar.nic.in
- III. The Karnataka Real Estate Regulatory Authority website will be launched shortly within a period of 4 weeks and registration of projects, developers and agents will take place through this portal. The standard agreement of sale and any other rules will be notified subsequently.
- IV. (a) Section 20(1) of the Real Estate (Regulation and Development) Act, 2016 (RERA Act) reads as below:
“Provided also that until the establishment of a Regulatory Authority under this Section, the appropriate Government shall, by order, designate any Regulatory Authority or any Officer preferably the Secretary of the Department dealing with Housing, as the Regulatory Authority for the purpose under this Act”.
Hence, Government of Karnataka appoints Principal Secretary to Govt. of Karnataka, Housing Department as the Interim Authority.

(b) Section 43(4) of the Real Estate (Regulation and Development) Act, 2016 reads as below:

“Provided also that until the establishment of a Appellate Tribunal under this Section, the appropriate Government shall, designate by order any Appellate Tribunal functioning under any law for the time being in force, to be the Appellate Tribunal to hear appeals under the Act”.

Government of Karnataka appoints Karnataka Appellate Tribunal as Interim Appellate Tribunal.

RERA for Promoters

Promoters will have to furnish the following information and documents for registration of a real estate project with the regulatory authority:

- a. self-attested copy of the PAN card of the promoter;
- b. annual report including audited profit and loss account, balance sheet, cash flow statement, directors report and the auditors report of the promoter for the immediately preceding three financial years; and where annual report is not available, the audited profit and loss account, balance sheet, cash flow statement and the auditor report of the promoter for the immediately preceding three financial years;
- c. the number of parking slots available in the said real estate project;
- d. authenticated copy of the of the legal title deed reflecting the title of the promoter to the land on which development of project is proposed along with legally valid documents for chain of the title.
- e. the details of encumbrances on the land for which permission given under section 109 of the Karnataka Land Reforms Act, 1961 if applicable, the Certified copy of the conversion order under section 95 of the Karnataka Land Revenue Act, 1964 and permission of change in land use granted under section 14 of the Karnataka Town and Country Planning Act, 1961, if applicable on which development is proposed including any rights, title, interest or name of any party in or over such land along with details;
- f. where the promoter is not the owner of the land on which development is proposed, details of the consent of the owner of the land along with self-attested collaboration agreement, development agreement, joint development agreement or any other agreement, as the case may be, entered into between the promoter and such owner and copies of title and other documents reflecting the title of such owner on the land proposed to be developed; and
- g. name, photograph, contact details and address of the promoter if it is an individual and the name, photograph, contact details and address of the chairman, partners, directors, as the case may be, and the authorized person in case of other entities.

Rules also state the amount per square meter to be paid by the Promoter at the time of registering for various types of projects (group housing, commercial, mixed development, plotted development)

- (a) in case of group housing project, ₹ 5 per square meter for projects where the area of land proposed to be developed does not exceed 1000 square meters; or ₹ 10 per square meter for projects where the area of land proposed to be developed exceeds 1000 square meters, but shall not be more than ₹ 5,00,000;
- (b) in case of mixed development (residential and commercial) project,- ₹ 10 per square meter for projects where the area of land proposed to be developed does not exceed 1000 square meters; or ₹ 15per square meter for projects where the area of land proposed to be developed exceeds 1000 square meters, but shall not be morethan ₹ 7,00,000;
- (c) in case of commercial projects,- ₹ 20 per square meter for projects where the area of land proposed to be developed does not exceed 1000 square meters; or ₹ 25per square meter for projects where the area of land proposed to be developed exceeds 1000 square meters, but shall not be more than ₹ 10,00,000;and
- (d) in case of plotted development projects,- ₹ 5per square meter,but shall not be more than ₹ 2,00,000

In case of withdrawal of application for registration of Project before the expiry of thirty days, Promoters will be refunded the registration fee amount excluding the processing fee to the extent of ten percent or ₹ 50,000, whichever is more.

RERA- Promoters' Perspective

The infographic consists of six colored boxes arranged in two rows of three. Each box contains an icon and a text description of a requirement or process related to RERA for promoters.

- Top Row:**
 - Red box:** Online registration of commercial as well as residential properties (Icon: Laptop).
 - Dark red box:** Audited financial reports to be submitted for immediately preceding three FY (Icon: Book).
 - Pink box:** Promoter or group profile, background, enterprise details etc. are published on the RERA web portal (Icon: Group of people).
- Bottom Row:**
 - Dark blue box:** Track record and Litigation details are published (Icon: Information 'i').
 - Yellow box:** 70% (Icon: Percentage sign). Note: 70% of the unutilised amount realized from buyers shall be deposited in an escrow account.
 - Orange box:** Buyer's consent has to be taken before making modifications in project plan (Icon: Handshake).

In accordance to the Rules, the Promoters of ongoing projects which have not received completion certificate shall, within the times specified, make an application to the Regulatory Authority in the form and manner as specified in rules. Within a period of three months of the application for registration of the project with

the Authority, Promoters are to deposit in a separate bank account, 70% of the amounts already realized from the allottees, which have not been utilized for construction of the project or the land cost for the project. If the receivable of the ongoing project is less than the estimated cost of balance construction, then the promoter shall deposit 100 % of the amounts to be realised in the separate account.

Here the ‘**Ongoing Projects**’ means a project where development is going on and for which completion certificate has not been issued but deletes such projects which fulfill any of the following criteria on the date of notification of these rules, namely:-

- (i) in respect of layouts where the streets and civic amenities sites and other services have been handed over to the Local Authority and Planning Authority.
The provision dealing with sites and services Local Authority and Planning Authority are given at the end of note *.
- (ii) in respect of apartments where common areas and facilities have been handed over to the registered Association consisting of majority of allottees;
The provision facilitating is as per provision of the Karnataka Ownership Act, 1972.
- (iii) where all development works have been completed as per the Act and certified by the competent agency and sales/lease deeds of 60% of the apartments/houses/plots have been registered and executed.
The definition of Development of Works is given at the end of the note **.
The competent agency to certify the completion of works is given at the end of the note ***
- (iv) where all development works have been completed as per the Act and certified by the competent agency and application has been filed with the competent authority for issue of completion certificate /occupation certificate.
The definition of Development of Works is given end of the note **.
The competent agency to certify the completion of works is given at the end of the note ***
Competent Authority to issue of Completion Certificate & Occupancy Certificate is given at the end of the note ****.
- (v) where Partial occupancy certificate is obtained to the extent of the portion for which the partial Occupancy Certificate is obtained.
The authority to issue partial Occupancy Certificate is given at the end of the note*****.

RERA for Real Estate Agents

Under this Act, the **Real Estate Agent** shall furnish the following information and documents for registration along with the required forms with the regulatory authority:

- a. brief details of his enterprise including its name, registered address, type of enterprise, proprietorship, societies, co-operative society, partnership, companies etc;
- b. particulars of registration including the bye-laws, memorandum of association, articles of association etc. as the case may be;
- c. name, address, contact details and photograph of the real estate agent if it is an individual and the photograph of the partners, directors etc. in case of other entities;
- d. self-attested copy of the PAN card; and
- e. self-attested copy of the address proof of the place of business.

In case of Real Estate Agent being an individual, a sum of ₹ 25,000 is to be paid towards registration fees, or ₹ 2,00,000 in case of the applicant being other than an individual.

The Regulatory Authority will notify the Real Estate Agent on the approval or rejection or rectification of his application.

Registration certificate and

number will be valid for 5 years. For renewal of registration, Real Estate Agent has to provide the updated documents with the fees and apply for the same before 3 months prior to the expiry of the registration granted. The renewal of registration of the real estate agent shall be granted provided that the real estate agent remains in compliance with the provisions of the Act and the rules and regulations made there under.

It is the responsibility of the real estate agent to provide assistance to enable the allottee and promoter to exercise their respective rights and fulfill their respective obligations at the time of booking and sale of any plot, apartment or building, as the case may be.

RERA- for Real Estate Agents



Rate of Interest Payable and Refund Timelines

- (i) The rate of interest payable by the promoter to the allottee or by the allottee to the promoter, as the case may be, shall be the State Bank of India highest marginal cost of lending rate plus 2%.
- (ii) Any refund of money along with the applicable interest and compensation, if any, payable by the promoter in terms of the Act or the rules and regulations made there under, shall be payable by the promoter to the allottee **within 60 days** from the date on which such refund along with applicable interest and compensation, if any, becomes due.

PENALTIES:

As per the Section 59 (1) & (2) of the Real Estate (Regulation and Development) Act, 2016, offences and penalties read as follows:

- (1) If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten percent of the estimated cost of the real estate project as determined by the Authority.
- (2) If any promoter does not comply with the orders, decisions or directions issued under sub-section (1) or continues to violate the provisions of section 3, he shall be punishable with imprisonment for a term which may extend up to three years or with fine which may extend up to a further ten percent of the estimated cost of the real estate project, or with both.

Information to be published on Website of Authority

The Rules also stipulate deployment of a dedicated website and makes it mandatory for all commercial and residential real estate projects as well as agents to register with the Real Estate Regulatory Authority, subject to the conditions laid down in the Act. Principal secretary of Housing Department, who is also acting as the interim Real Estate Regulatory Authority for the State of Karnataka, has already commenced work on developing and deploying the Web Portal with the aforementioned objective and would soon start the registration process for Real Estate Projects and Agents online.

Further, it has been mandated that all marketing and promotional activities must indicate the registration details, so as to keep prospective buyers informed. This will provide greater transparency and accountability in project-marketing and execution and also provide a mechanism for grievance redressal of aggrieved home buyers.

Real Estate Regulatory Authority

Government of Karnataka will allocate a Selection Committee for selection of the Chairperson or a Member of the Regulatory Authority. The Selection Committee shall prepare a panel of names possessing the requisite qualification and experience suitable for consideration for appointment as Chairperson or Member of the Regulatory Authority.

The Selection Committee will make its recommendations within sixty days and State Government will make its decision within 30 days.

Interim Regulatory Authority for the purpose of this Act will be Secretary of the Housing Department.

Filing of Complaint

Any aggrieved person may file a complaint with the Regulatory Authority for any violation under the Act or the rules and regulations. Aggrieved Consumer would file the complaint to the Adjudicating Officer. He would have to provide a fee of ₹ 1,000 in form of DD. The consumers can file their complaint with Regulatory Authority or Adjudicating Officer.



Real Estate Appellate Tribunal will also be setup to hear appeals from the decisions, directions or orders of the Authority. Every appeal filled will be accompanied by fees of ₹ 5,000.

Every appeal will be either filed at the filing counter of the Registry of the Appellate Tribunal or through a registered post or through online system, as applicable.

The following supporting documents are required for filing of appeal:

- (a) authenticated copy of the order against which the appeal is filed;
- (b) copies of the documents relied upon by the appellant and referred to in the appeal; and
- (c) an index of the documents.

This Act now gives consumers within the state a platform to voice their grievances and lodge complaints against a promoter/agent. The Court, Authority/Tribunal shall, for the purposes of compounding any offence punishable with imprisonment under the Act, accept an amount of up to ten percent of the estimated cost of the Project as mentioned in the Chapter XI of Karnataka Real Estate (Regulation and Development) Rules-2017.

RERA for Buyers/Consumers

The enforcement of these rules will ensure that the State's citizens can now get information and choose suitable apartments/houses/plots without having to worry about the project execution and with a recourse to complaints and suitable action against defaulting developers/agents. Buyers will have a real time view/update on the project status, litigations against any promoters etc. In the long run, this will lead to more responsible conduct within the Real Estate community and protect consumer interests.

With the Rules coming into effect immediately, it is expected that the Real Estate sector will be justly regularized and provide home buyers in the state a much-needed platform for information and redressal purposes.

RERA – what's in it for Buyers



This Act now gives consumers within the state a platform to voice their grievances and lodge complaints against a promoter/agent. This will ensure that the State's citizens can now get information and choose suitable apartments/houses/plots without having to worry about the project execution and with a recourse to complaints and suitable action against defaulting developers/agents. In the long run, this will lead to more responsible conduct within the Real Estate community and protect consumer interests.

End Note:

Explanation *: Section 17 of the Karnataka Town and Country Planning Act reads as follows:

"(1) The State Government shall by rules prescribe the standards to be followed and minimum extent of Land to be considered for approval of Layout for sub dividing a plot and prescribe the minimum extent of area to be earmarked for park, open spaces and civic amenity sites and laying out roads. Every person who intends to sub divide his plot by making a layout on or after the date of the publication of the declaration of Local Planning Area under section 4-A, shall submit detailed plan of the layout of his plot showing layout of roads, sub-divided plots and earmarking

area for park and open spaces and civic amenities to such extent and in such manner, as prescribed.

- (2) The Planning Authority may, within the prescribed period, sanction such plan either without modification or subject to such modifications and conditions as it considers expedient or may refuse to give sanction, if the planning authority is of the opinion that such plan is not in any way consistent with the proposals of the Master Plan. Provided that where the Master Plans are not finally approved, in such cases the Planning Authority may sanction the layout plan as per the guidelines issued by the Government from time to time.
- (2A) If the Authority decides to sanction the layout plans under sub-section (2), it shall sanction provisional layout plan in accordance with such rules as may be prescribed for demarcation and development purposes showing the sites, street alignment, park and civic amenity area and any other infrastructure facility including the arrangement to be made for levelling, paving, metalling, flagging, channelling, sewerage, draining, street lighting and water supply to the satisfaction of the Planning Authority and local authority. One copy of such plan shall be marked to the jurisdictional local authority. The owner shall relinquish the roads, parks to the local authority and Civic Amenity areas to the Planning Authority through registered relinquishment deed free of cost without claiming any compensation.
- (2B) The Planning Authority shall ensure the completion of all development works including all infrastructure facilities as mentioned in sub-section (2A) under the supervision of the concerned Authority/ Agency/Department. On obtaining the certificate of completion from the concerned Authority/Agency/Department on having completed all the development works and on relinquishment of the roads, parks to the local authority and Civic Amenity areas to the Planning Authority and handing over the same, the Planning Authority may issue the final layout plan affixing the seal of the Planning Authority for registration purpose. Provided that no Commencement Certificate or licence shall be sanctioned or issued for buildings on sites in the layout unless the final layout plan is issued."

Explanation **: AS per the RERA Act, Development works means:

Section 2(t) "development works" means the external development works and internal development works on immovable property;

Explanation *:** Section 190 of the Karnataka Municipalities Act 1964 reads as follows:

- (1) Every person erecting a building or executing a work as is described in subsection (1) of section 187 shall, within one month after the completion of the erection of such building or the execution of such work, deliver or send or cause to be delivered or sent to the Municipal Commissioner or Chief Officer at his office a notice in writing of such completion, and shall give to the officer of the municipal council deputed for the purpose all necessary facilities for the inspection of such building or of such work:

Provided that,—

(a) such inspection shall be commenced within seven days from the date of receipt of the notice of completion; and

(b) the Municipal Commissioner or Chief Officer may, not later than one month from the date of receipt of notice of completion, by written intimation addressed to the person from whom the notice of completion was received, and delivered at his address as stated in such notice or in the absence of such address, affixed to a conspicuous part of the building to which such notice relates,—

(i) give permission for the occupation of such building or for the use of the building or part thereof affected by such work, or 1964: KAR. ACT 22] Municipalities 745

(ii) refuse such permission in case such building has been erected or such work executed so as to contravene any provision of this Act, or of any rule or bye-law made under this Act at the time in force or of any order passed under sub-section (3) of section 187 intimating to the person who gave the notice under sub-section (1) of section 187 the reasons for such refusal and requiring such person, or, if the person responsible for giving notice under sub-section (1) of section 187 is not at the time of such notice the owner of such building or work, then such owner, to cause anything which is contrary to any provision of this Act or of any rule or bye-law made under this Act at the time in force or of any order passed under sub-section (3) of section 187 to be amended or to do anything which by any such provision or rule or bye-law or order he is required to do but has omitted to do.

(2) No person shall occupy or permit to be occupied any such building, or use or permit to be used the building or part thereof affected by any such work, until,—

(a) the permission referred to in proviso (b) to sub-section (1) has been received, or

(b) the Municipal Commissioner or Chief Officer has failed for one month after the receipt of the notice of completion, to intimate as aforesaid his refusal of the said permission.

(3) Whoever contravenes the provisions of this section or fails to comply with any order or requisition made there under shall be punished with fine which may extend to one hundred rupees and in the case of a continuing contravention or non-compliance, with an additional fine which may extend to ten rupees for every day during which such contravention or non-compliance continues after the conviction for the first such contravention or non-compliance.

Explanation **:** Section 310 of the Karnataka Municipal Corporation Act, 1976 reads as follows:

310. Completion certificate and permission to occupy or use.- (1) Every person shall, within one month after the completion of the erection of a building or the execution of any such work, deliver or send or cause to be delivered or sent to the Commissioner at his office notice in writing of such completion, accompanied by a certificate in the form prescribed in the byelaws signed and subscribed in the manner prescribed and shall give to the Commissioner all necessary facilities for

the inspection of such buildings or of such work and shall apply for permission to occupy the building.

1 [(1A) Notwithstanding anything contained in sub-section (1), where permission is granted to any person for erection of a building having more 512 Municipal Corporations 1977: KAR. ACT 14] than one floor, such person shall, within one month after completion of execution of any of the floors of such building, deliver or send or cause to be delivered or sent to the Commissioner at his office, a notice in writing of such completion accompanied by a certificate in the form prescribed in the bye-laws, signed and subscribed in the manner prescribed and shall give to the Commissioner all necessary facilities for inspection of such floor of the building and may apply for permission to occupy such floor of the building.]1 1. Inserted by Act 32 of 1986 w.e.f. 17.6.1986.

(2) No person shall occupy or permit to be occupied any such building, 1 [or part of the building]1 or use or permit to be used the building or part thereof affected by any work, until,-

(a) permission has been received from the Commissioner in this behalf;
or

(b) the Commissioner has failed for 2 [thirty]2 days after receipt of the notice of completion to intimate his refusal of the said permission.

BBMP's Building By-laws-2003

Every person shall before the expiry of five years from the date of issue of licence shall complete the construction or reconstruction of a building for which the licence was obtained and within one month after the completion of the erection of a building shall send intimation to the Commissioner in writing of such completion accompanied by a certificate in Schedule VIII certified by a Registered Architect / Engineer / Supervisor and shall apply for permission to occupy the building. The Authority shall decide after due physical inspection of the building (including whether the owner had obtained commencement certificate as per section 300 of the Karnataka Municipal Corporations Act, 1976 and compliance regarding production of all required documents including clearance from the Fire Service Department in the case of high rise buildings at the time of submitting application) and intimate the applicant within thirty days of receipt of the intimation whether the application for occupancy certificate is accepted or rejected. In case, the application is accepted, the occupancy certificate shall be issued in the form given in Schedule IX provided the building is in accordance with the sanctioned plan.

Explanation ***: BBMP's Building By-laws-2003**

5.7. Occupancy or letting of the new buildings - No person shall occupy or allow any other person to occupy any new building or part of a new building for any purpose whatsoever until occupancy certificate to such buildings or part thereof has been granted by an officer authorised to give such certificate if in his opinion in every respect the building is completed according to the sanctioned plans and fit for the use for which

it is erected. The Authority may in exceptional cases (after recording reasons) allow partial occupancy for different floors of a building.

Promoters under this rule have to disclose the following:

- (i) Original Sanctioned Plan, Layout plan with specifications and modifications carried out;
- (ii) the total amount of money collected from the allottees and the total amount of money used for development of the project including the total amount of balance money lying with the promoter; and
- (iii) status of the project (extent of development carried out till date and the extent of development pending) including the original time period disclosed to the allottee for completion of the project at the time of sale including the delay and the time period within which he undertakes to complete the pending project, which shall be commensurate with the extent of development already completed, and this information shall be certified by an engineer, an architect and a chartered accountant in practice
- (iv) size of the apartment based on carpet area even if earlier sold on any other basis such as super area, super built up area, built up area etc. which shall not affect the validity of the agreement entered into between the promoter and the allottee to that extent.
- (v) In case of plotted development, the promoter shall disclose the area of the plot being sold to the allottees as per the layout plan.

In case of acceptance of the application, the Regulatory Authority shall issue a registration certificate with a registration number to Promoter. In case of rejection, Promoter will be informed about the same or Authority may grant to rectify application within a stipulated time frame.

In case of extension of Project, Promoter has to send an explanatory note on the extension requirement along with the documents supporting the same, within 3 months prior to the expiry of the registration granted. For extension, the Promoters have to pay an amount of half the registration fees. Extension of registration of the project shall not be beyond the period specified under concerned State Acts for completion of the project or phase thereof, as the case may be. In case of force majeure, Promoter is not liable to pay any extension fee.