

The Goa Law Commission invites views and comments from the public and interested parties on the following Draft Bill

**GOA REAL ESTATE (CONTROL AND DEVELOPMENT) ACT 2010
(proposed) AN ACT**

To regulate, control and promote planned and healthy development and construction, sale, transfer and management of colonies, residential buildings, apartments and other similar properties, and to facilitate the smooth and speedy construction and maintenance and transfer of such colonies, residential buildings, apartments and properties and for matters connected therewith or incidental thereto.

Be it enacted by Goa Assembly in the Year of the Republic of India as follows:

PRELIMINARY

1. Short title, extent and commencement:

- (1) This Act shall be called the Goa Real Estate (Control and Development) Act, 2010.
- (2) It extends to the State of Goa.
- (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Definitions:

In this Act, unless the context otherwise requires, -

- (a) "advertisement" means visible representation made to the general public either through announcement or display or in any other manner whatsoever, offering for sale, lease or approval of a plot, residential building or apartment or inviting persons to take such plot, residential building or apartment to make advances or deposits for such purposes;
- (b) "allottee", in relation to a residential building, apartment, premises, flat or plot, means the person to whom such residential building or apartment or premises or flat or plot has

been allotted, sold or given on rent, lease or otherwise transferred by the promoter;

- (c) “apartment”, whether called dwelling unit, flat, premises, including office/s suite, tenement, unit or by any other name, means a separate and self-contained part of any property located in a basement or cellar or on one or more floors or any part thereof, in a residential building or on a plot of land, used or intended to be used for residence, or for any other type of independent use ancillary to the purpose specified and includes any garage or room, whether or not adjacent to the residential building in which such apartment is located which has been provided by the promoter for the use of the allottee for parking any vehicle, or as the case may be, for the residence of any domestic help employed in such apartment;
- (d) Advocate means a person registered is an Advocate under the provisions of Advocates Act 1961.
- (e) “architect” means a person registered as an architect under the provisions of the Architects Act, 1972 (20 of 1972);
- (f) “association” means an association consisting of majority of the apartment owners, occupants in a residential building or colony acting as a group in accordance with the provisions of this Act or any other law for the time being in force;
- (g) “building” means a residential building constructed on any land from any construction material for residential use and includes an apartment or any structure used for human habitation;
- (h) “building regulations” means the rules or regulations or bye-laws made under any law for the time being in force for the erection or re-erection of buildings or parts thereof and for the purpose of this Act includes zoning or development control regulations framed under such law;
- (i) “colony” means an area of land divided or proposed to be divided into plots or flats for residential, commercial or industrial purpose, but does not include an area of land divided or proposed to be divided —
 - i. for the purpose of agriculture; or
 - ii. as a result of family partition, inheritance, succession or partition of joint holding not with the intention of earning profit; or
 - iii. in furtherance of any scheme sanctioned under any other law for the time being in force; or

- iv. for setting up a housing colony for the labourers or the employees working in a factory without any profit motive; or
 - v. when it does not exceed one thousand square meters;
- (j) “common areas and facilities”, in relation to an apartment or a residential building, means all parts of the apartment or residential building or the land on which it is located and all easements, rights and appurtenances belonging to such apartment, residential building or land, which are neither in the exclusive possession or enjoyment of an apartment owner or allottee in terms of his conveyance deed of apartment, nor are handed over or intended to be handed over to the local authority or other public service agency and includes the limited common areas and facilities as may be prescribed;
- (k) “common expenses” means, -
- i. all sums lawfully assessed against the apartment owners by the Association for meeting the expenses of administration, maintenance, repair or replacement of the common areas and facilities;
 - ii. any expenses incurred under the provisions of this Act or under the provisions of any other law for the time being in force, or agreed upon by the Association, as common expenses;
 - iii. the Government and municipal taxes including ground rent and property tax, which is not assessed separately for each apartment;
- (l) “company” means a company formed and registered under the Companies Act, 1956 (1 of 1956) and includes, -
- i. a corporation established by or under the Central Act or State Act;
 - ii. a development authority or public authority established by the Government in this behalf under any law for the time being in force;
- (m) “Competent authority” means the local authority or authority under Town and Country Planning Act, which exercises authority over area under its jurisdiction, and has powers to give permission for development or construction on that land.
- (n) “contractor” means a person who has entered into a contract with the promoter or any other person authorized by him, for

execution of any work, supply of goods, services, materials or equipment and includes, –

- i. his legal representatives,
 - ii. successors in title or permitted assignees,
 - iii. unless otherwise excluded, all sub-contractors who have similar arrangement with the contractor for execution of any work, supply of goods, services, materials or equipment;
- (o) “current rate of interest” has the same meaning as assigned to it in clause (b) of section 2 of the Interest Act, 1978 (14 of 1978);
- (p) “development” with its grammatical variations and cognate expressions, means the carrying out development of building, engineering or other operations in, on, over or under land or the making of any material change in any building or land and includes redevelopment;
- (q) “development charges” means the cost of development works;
- (r) “development works” means the internal development works and external development works;
- (s) “Director”, in relation to a firm, means a partner of the firm, and in relation to a development authority or public authority means a person who takes decisions on matters of policy in his office or designated as such by the said authority.
- (t) “engineer” means a person who possesses a bachelor’s degree or equivalent from an institution recognized by the All India Council of Technical Education or is registered as an engineer under any law for the time being in force;
- (u) “external development works”, includes roads and road systems, landscaping, water supply, sewerage and drainage systems, electricity supply transformer, sub-station or any other work which may have to be executed in the periphery of, or outside, a colony for its benefit;
- (v) “Government” means the Government of Goa.
- (w) “internal development works” includes roads, footpaths, water supply, sewers, drains, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water or any other work in a colony necessary for its proper development;

- (x) "joint family" means a Hindu undivided family and in the case of other person, a group the members of which are by custom jointly in possession of residence;
- (y) "land" means a portion of the surface of the earth, comprising the ground or soil and everything under it or over it, and things which are attached to the earth, such as buildings, structures and trees, things which are permanently fastened to the earth or things attached to the earth, easements, rights and appurtenances belonging to them and the benefits arising out of such earth and includes the sites of villages or towns;
- (za) "local authority" means the City Corporation of Panaji or Municipal Council under Goa Municipalities Act or Village Panchayat under Goa Panchayat Raj Act;
- (zb) "market" means a place,-
(a) to sell;
(b) to offer to sell; or
(c) to engage in any transaction or other activities which shall or is likely to lead to a sale.
- (zd) "owner" means the owner of apartment having undivided interest in common areas and facilities appurtenant to such apartment in the percentage specified.
- (ze) "person" includes, -
i. an individual,
ii. an individual in partnership with others,
iii. a company,
iv. a firm,
v. a local authority, an association of persons or a body of individuals, whether incorporated or not,
vi. joint family, and
vii. any such other entity as the Government may, by notification in the Official Gazette, specify in this behalf;
- (zf) "prescribed" means prescribed by rules made under this Act;
- (zg) "project" means the real estate project under this Act;
- (zh) "promoter" means, -
i. a person who constructs or causes to be constructed a residential building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or
ii. a person who develops a colony for the purpose of selling to other persons all or some of the plots, whether with or without structures thereon;

Explanation:- For the purposes of sub-clauses (i) and (ii), where the person who constructs a residential building or converts a residential building into apartments or develops a colony, and the person who sells apartments or plots are different persons, both the persons shall be deemed to be the promoters;

- iii. any development authority or any other public body, as the Government may, by notification in the Official Gazette, specify in respect of allottees of -
 - a. residential buildings or apartments constructed by them on lands owned by them or placed at their disposal by the Government; or
 - b. plots owned by them or placed at their disposal by the Government.
 - iv. a Cooperative Housing Society who constructs apartments or residential buildings for its members, in respect of the allottees of such apartments or residential buildings or a society formed by the owners or the promoter for the purpose of conveying and maintaining the project.
 - v. any other person who poses himself as a builder, colonizer, contractor, developer, promoter or by any other name or claims to be acting the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or colony is developed;
 - vi. such other person who constructs any building or apartments for sale to general public or for its own use as the Government may, by notification in the Official Gazette, specify;
- (zi) “property” means the land, the building, all improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, and includes every type of right and interest in land which a person can have to the exclusion of other persons, such as possession, use and enjoyment free from interference, right of disposition and franchises;
- (zj) “real estate management” includes the activities of,
- i. development of colonies and their management;
 - ii. promotion of construction, sale, transfer and management of residential buildings, apartments or other similar properties;
- (zk) “Schedule” means the Schedule annexed to this Act.

Responsibilities of promoter and allottee

3. Responsibility of the promoter to make available for inspection, all documents and information to persons intending to take plot or building or apartment in the real estate project:

A promoter who develops or intends to develop a real estate project, shall be liable to make available or cause to be made available for inspection the sanction accorded by the Competent Authority, to all persons taking or intending to take a plot, a building or an apartment on ownership basis in the project, all such information and documents which shall include but not be limited to the following, namely:-

- (a) details of the sanction accorded by the Competent Authority;
- (b) Title certificate issued by Advocate showing marketability of the land
- (c) full and true disclosure of his enterprise details such as name, registered address, type of enterprise (proprietorship, societies, partnership companies, local authority etc.), registration details under the law registered etc.;
- (d) a full and true disclosure of the nature of his title to the land on which the real estate project is developed or intended to be developed:

Provided that if such land is owned by another person, the consent of the owner of such land for the development of the real estate project shall also be furnished.
- (e) details of all encumbrances on such land, including any rights, title, interest or claim of any party in or over such land;
- (f) the layout plan of the real estate project;
- (g) the plan of development works to be executed in the real estate project as approved by the local authority;
- (h) the plan and specifications of the building or apartments constructed or to be constructed on the land, common areas, carpet built up and super built up areas, facilities and common services proposed including supply of electricity and water, sewerage and drainage systems, lifts, fire-fighting equipment as required or approved by the local authority concerned in accordance with the provisions of the building regulations in force;

- (i) the details of the parts of the colony or apartments and the appurtenant areas that are intended to be kept as common areas and facilities;
- (j) the names and addresses of the authorized agents, property dealers, brokers or middlemen by whatever name called;
- (k) the names and addresses of the architect, engineer and contractor retained for construction of the building or apartments; and
- (l) such other information and documents as may be prescribed.

4. Issuing of advertisement or prospectus inviting advance or deposit:

- (1) The advertisement or prospectus issued or published shall contain true statement and disclose, the extent and situation of the land, the area of the plots, building or apartments offered for sale, nature of title to the land, the cost payable, names of the agents or property dealers or brokers or middlemen known by any other name through whom the property proposed to be marketed and such other matters as may be prescribed. The advertisement can be issued only after all approvals are granted by competent/authority.

5. Responsibility of promoters regarding veracity of the advertisement or prospectus:

When any person makes an advance or a deposit on the basis of the information contained in the advertisement or prospectus and sustains any loss or damage by reason of any untrue statement included therein, he shall be compensated by the promoter for any loss that he may have sustained consequent to such information:

Provided that if the person affected intends to withdraw from the project, he shall be returned his entire investment along with interest at a rate not exceeding the current rate of interest as given by the State Bank of India.

6. Agreement between promoter and allottee:

- (1) Notwithstanding anything contained in any other law for the time being in force, a promoter shall not accept any sum of money as advance payment or deposit, from a person who comes forward to take a plot, building or apartment, as the case may be, without first entering into a written agreement for sale, which shall contain particulars detailed out at Schedule I and which shall be registered under the Registration Act, 1908 (16 of 1908).
- (2) The promoter shall not collect over 85% of the total consideration amount from the allottee during the project period. Of the remainder

amount, 7.5% can be collected upon granting possession of the apartment and 7.5% at the time of conveyance in terms of Section 9.

- (3) The agreement referred to in sub-section (1) shall contain particulars detailed out in Schedule I and shall specify inter alia, the schedule of development of the project including the construction of building and apartments, along with specifications and external development, works, the dates and manner by which payments towards the cost of the plot, building or apartment are to be made by the allottees and the date on which the possession of the plot, building or apartment is to be handed over.

Explanation:- Where only a refundable application fee is collected from the applicant before draw of lots for specific allotment, such agreement will be required only after such allotment.

- (4) The promoter shall not cancel unilaterally the agreement of sale entered into under sub-section (1) and if he has sufficient cause to cancel it, he shall give due notice to the other parties to the agreement and tender a refund of the full amount collected together with interest at a rate not exceeding the current rate of interest as given by State Bank of India.

7. Responsibility of Promoter to take steps for formation of a Cooperative Society or company for maintaining and conveying the property:

As soon as minimum number of persons required to form a Co-operative society or a company have taken apartments, the promoter shall within the prescribed period submit an application to the Registrar for registration of the organization of persons who takes the apartments as a Co-operative society or, as the case may be, as a company; and the promoter shall join, in respect of the flat which have not been taken in such application for membership of a co-operative society or as the case maybe of a company. Nothing in this section shall affect the right of the promoter to dispose of the remaining apartments in accordance with the provisions of this Act.

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 Goa Co-operative Societies Act, 2000, the registrar of Co-operative Societies receiving an application form the person who have taken apartments from the said promoter, direct the District Deputy Registrar, Deputy Registrar or as the case may be, Assistant Registrar concerned, to register the society.

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 maybe Assistant Registrar without first verifying authenticity of the applicants request and giving the concerned promoter a reasonable opportunity of being heard.

8. Responsibility of the Promoter regarding the account of sums taken from or on behalf of the allottees:

Promoters shall maintain, including as provided in Schedule II, all accounts of sums taken from and on behalf of allottees, register and record for audit purposes to be audited by a Chartered Accountant.

9. Responsibility of the promoter to the allottees during project period:

(1) Once the promoter enters into an agreement of sale with the allottee for transfer of the ownership by sale or lease of the plot or building or apartment, he shall be responsible to make available or cause to be made available, in addition to the information specified in section 6, the following in respect of the real estate project, namely:-

(a) display on site plans along with structural designs and specifications, approved by the local authority, at the site or such other place as may be specified in the registration before and during construction of the building or apartments and make them available for inspection to persons taking a plot, building or apartment on ownership basis;

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

(c) disclose the stage wise time schedule of completion of the project;

(d) disclose the time schedule for connecting the project with the municipal services such as sewerage, water supply, electricity, drainage etc. as applicable;

(e) disclose on reasonable notice or demand, the particulars or specifications in respect of the design and the materials to be used in construction, and disclose all agreements entered into by him with the architects, structural engineers and contractors regarding the design, materials and construction of the building;

(f) display on site certificate signed by the owner, architect and structural engineer regarding the compliance of statutory provisions related to the relevant revenue, planning, building and structural safety laws;

(2) The promoter shall also be responsible to furnish on demand and on payment of such charges of the aforesaid documents, to the allottees individually or collectively.

(3) It shall be the responsibility of the promoter to obtain a completion certificate of the building or apartments from the concerned competent

authority as per building regulations in force and make it available to the allottees individually or to an authorized collective of allottees as the case may be.

- (4) If, after the construction of the building or apartments, the promoter does not apply, within a reasonable time, or is unable to so apply, for an completion certificate from the competent authority, the allottee of the building or apartment may apply for such certificate to the said authority and such authority may grant the required certificate.
- (5) The cost incurred by the allottee in obtaining the above certificate under sub section (4) shall be recoverable from the promoter.
- (6) The promoter shall also prepare and maintain all such other details as may be prescribed including the details as provided under Schedule III.

10. Adherence to approved plans, and project specifications by the promoter:

- (1) After the layout plan of the plots in a colony or the plans and specifications of the building or apartment, as the case may be, are approved and the same are disclosed or furnished to the person who agrees to take the building or apartment, the promoter shall not make any alterations in the structures indicated therein which affect the allottee's prejudicially in no case shall make such alterations that are not permissible as per building regulations:
- (2) After the plans and specifications of the buildings as approved by the local authority as aforesaid, are disclosed or furnished to the persons who enters into agreement in terms of Section 4, the promoter shall not make
 - i) Any alterations in the structures described therein in respect of the apartment or apartments which are agreed to be taken, without the previous consent of that person; or
 - ii) Any other alterations or additions in the structure of the building without the previous consent of all the persons who have agreed to take the apartments in such building in case the alterations or additions affect them prejudicially.

Provided that after the possession of the building or apartment is handed over to the allottee, the promoter shall not be responsible if additions and alterations are done in the building or apartment by the allottee or occupier, in violation of the building regulations and without the consent of the promoter, project architect and project engineer.

- (3) Subject to the provisions of sub-section (1), the building or apartments shall be constructed and completed in accordance with the plans and structural designs and specifications as referred to in sub-section (1) and if any defect in the building or apartments or in the material used in the construction is brought to the notice of the promoter within a period of two years from the date of handing over possession, it shall, wherever possible, be rectified by the promoter without further charge

to the persons who have taken the building or apartments, and in other cases such persons shall be entitled to receive reasonable compensation.

- (4) Where there is a dispute as regards any defect in the building or apartments or material used in the construction, or the reasonable possibility for the promoter to rectify any such defect or the amount of reasonable compensation payable in respect of any such defect.

11. Handing over of apartment, common areas and execution of the conveyance deed documents to the Collective:

- (1) After obtaining the occupation certificate or completion certificate, as the case may be, the promoter take all necessary steps to convey the exclusive ownership of the apartment or building or plot and the undivided interest in the common areas and facilities appurtenant to such apartments to the Co-operative Housing Society or a Company as the case may be or the person in whose favour he had executed an agreement of sale of that apartment or building or plot in case society or company cannot be formed.
- (2) A promoter shall take all necessary steps and cause execution of the conveyance deed to the organization of persons who take apartments, which is registered either as a co-operative society or as a company as aforesaid his right, title and interest in the land and building and execute all relevant document therefor in accordance with the agreement executed under Section 6 and if no period for the execution of the conveyance is agreed upon he shall execute the conveyance within one year of the issue of completion certificate or the date by which at least seventy five percent of plots, building or apartments are handed over whichever is earlier and also deliver all documents of title relating to the property which may be in his possession of power.
- (3) Provided further in case the Housing Cooperative Society cannot be formed due to the apartments being less than required number for formation of the Cooperative Society. The promoter shall execute the conveyance deed of the property within 3 months of the date of giving possession of the apartment of building or plot and also deliver all documents of title relating to that property which may be in his possession.
- (4) The promoter shall not reserve any right in that property except to the extent of the apartments which he is taking up in his own name and the apartments which are meant for sale but are yet to be sold.
- (5) After obtaining the completion certificate as provided in sub-section (3) of section 9 and handing over physical possession of the plots or buildings or apartments to the allottees in terms of this section, it shall be the responsibility of the promoter to hand over the possession of the common areas and appurtenants and also the originals of the plans and documents to the Cooperative Society, Company or Association of

the allottees formed and registered under any other law for the time being in force:

Provided that such handing over of physical possession of the common areas and appurtenants shall be completed within a period of one year from the date of issue of the completion certificate or the date by which at least seventy-five percent of the plots, buildings or apartments have been handed over to the allottees, whichever event occurs earlier, subject to the condition that the promoter shall be responsible for the sale and transfer of the balance plots, buildings or apartments and for the expenditure on the maintenance of the common areas and appurtenants till such time as seventy-five percent of the plots, buildings or apartments are not sold or transferred by the promoter.

12. No mortgage without consent:

- (1) No promoter shall, after he executes an agreement to sell any plot, building or apartment, mortgage or create a charge on such plot, building or apartment without the previous written consent of the person who has taken or agreed to take such plot, building or apartment and if any such mortgage or charge is made or created without such previous consent after the registration of the agreement under section 10, then notwithstanding anything contained in any other law for the time being in force, it shall not affect the right and interest of the person who has taken or agreed to take such plot, building or apartment.
- (2) Where a promoter has executed an agreement of sale of plot, building or apartment with a person and has not yet received from such person all the amounts agreed to be paid, the latter shall not mortgage or create a charge against such plot, building or apartment without the previous written consent of the promoter:

Provided that the promoter shall not withhold consent if the mortgage or charge is proposed to be made or created for the purpose of obtaining finance for the payment of the amounts due to the promoter.

13. Supply of essential services:

- (1) It shall be the responsibility of the promoter to provide essential services such as water supply, electricity, light in passages and staircases, lifts and sanitary services as per agreement to the allottee of the building or apartment or to any person in authorized occupation thereof till such time and in such manner as specified in the agreement of sale, and such services shall not, except with just and sufficient notice, be cut-off, withheld, or curtailed.
- (2) The details of the essential supplies and services referred to in sub-section (1) shall be kept by the promoter in the form of a statement and

shall, be made available on demand to the allottee or Association of allottees.

14. General liabilities of allottees:

1. Every allottee who has entered into an agreement of sale to take a plot or an apartment under section 6 shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement and shall after taking possession of the plot or apartment or building under section 9 pay at the proper time and place, the proportionate share of the municipal taxes, water and electricity charges, ground rent, if any, and other charges, in accordance with such agreement.
2. Every allottee shall cooperate in the formation of Housing society or company as the case may be and without reasonable excuse shall not fail to comply with the requirement of the bye laws of the cooperative housing society or articles of the association of the company as the case may be.
3. Every allottee shall pay to the cooperative society or the company as the case may be charges for maintenance of the property, management of the society and other amounts permissible to be collected the Goa Cooperative societies Act 2001.

OFFENCES AND PENALTIES

15. Penalty for contravention of sections 3 to 10 etc.

Whoever, without reasonable cause, fails to comply with, or contravenes, the provisions of sections 3 to 10 shall be liable to imprisonment for a term which may extend to 3 months a fine of rupees upto three lakhs.

- 16.** Punishment for non compliance of Secs. 11 to 13 whoever without reasonable cause, fails to comply with or contravenes, the provisions of Section 11 to 13 shall be liable to imprisonment for a term which may extend to two years and fine upto Rupees ten lakhs.

17. Penalty for non-payment by the allottee under section 14:

Any allottee, who without reasonable cause, fails to comply with, or contravenes, the provisions of section 14, shall be liable to a penalty which may extend to Rupees one lakh.

18. Penalty for Contravention of other provisions of the Act or rules made thereunder:

Any person, or promoter, or architect, or engineer, or estate agent, or contractor who, without reasonable cause, fails to comply with, or contravenes, any other provision of this Act or of any rules made there under, or does not pay the penalty imposed on him shall, if no other penalty is expressly provided for the offence under this Act, be liable to a penalty which may extend to rupees ten lakhs.

19. Offences by companies:

- (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, or 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:

Provided that nothing contained in this sub-section, shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he had 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 by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect 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 purpose of this section, -

- (a) "company" means any 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.

20. Compounding of offences:

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also fine, may either before or after the institution of the proceeding, be compounded by a court before which such proceedings are pending.

21. Offences to be cognizable

All offences under this sections shall be non-cognizable and bailable.

Miscellaneous

15. Jurisdiction of court:

- (1) No court inferior Judicial Magistrate of the First Class shall try any offence punishable under this Act.
- (2) No court shall take cognizance of an offence punishable under this Act or any rules or regulations made there under, except upon a complaint on writing by the allottee.
- (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), it shall be lawful for the Judicial Magistrate of the First Class to pass a sentence of imprisonment or of fine or both under this Act.

16. Power to make Rules:

- (1) The Goa Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

17. Protection of acts done in good faith:

No suit, prosecution or other legal proceedings shall lie against the Government for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or rules and regulations made thereunder.

18. Act to have overriding effect:

The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Schedule- I

[See sub-section (1) of section 6]

Form of the agreement and accompanying documents

The form of agreement shall contain, inter alia, in the case of apartments, and development of plots the following particulars, namely: -

- (1) details of the liability of the promoter to construct the apartments according to the plans and specifications, approved by the authority, which is required so to do under any law for the time being in force;
- (2) the date by which the possession of the apartment is to be handed over to the allottee;
- (3) the area of the apartments on carpet area basis, and the area of the balconies which should be shown separately;

- (4) the price of the apartment, including the proportionate price of the common area and facilities which should be shown separately, to be paid by the allottee of the apartment and the intervals at which the installments thereof may be paid;
- (5) the precise nature of the association to be constituted of the persons who have taken or are to take the apartments;
- (6) the nature, extent and description of the common areas and facilities and the limited common areas and facilities, if any;
- (7) the percentage of undivided interest in the common areas and facilities, if any, pertaining to the apartment to be sold, such percentage shall be the ratio of the built-up area of the apartment to the total built-up area of all the apartments;
- (8) the statement of the use for which the apartment is intended and restrictions on its use, if any;
- (9) the liability of the promoter to develop the requisite infrastructure as per approved standards.
- (10) the details of essential services to be provided and extent thereof such as water supply, electricity, passages, staircases, sanitary services, etc.

Schedule- II

[See section 8]

Promoter's responsibility regarding the account of sums taken from or on behalf of the allottees

- (1) The promoter shall maintain a separate account in any Scheduled Bank of sums taken by him from, or on behalf of, persons intending to take or who have taken a plot, building or an apartment, as advance towards sale price or for any other purpose, or as deposit including any sum so taken towards the share capital for the formation of a cooperative society or a company, or towards the outgoings (including ground rent, if any, municipal or other local taxes, charges for water or electricity, revenue assessment, interest on mortgages or other encumbrances, if any, stamp duty and registration fee for the agreement of sale and conveyance deed).
- (2) The promoter shall hold the said sums for the purposes for which they were given and shall disburse the sums for those said purposes including the development of the real estate project and shall on demand, in writing, by the allottees, individually or collectively, make full and true disclosure of all transactions in respect of that account on payment of charges and shall not utilize these sums for any purpose other than the purpose for which they were so collected.

Responsibility of promoter for outgoings till transfer

- (1) A promoter who has collected from the allottees, sums for the payment of outgoings shall pay all outgoings (including ground rent, municipal or other local taxes, charges for water or electricity, interest on mortgages or other encumbrances, if any) until he transfers the physical possession of the property to the allottees.
- (2) Where any promoter fails to pay all or any of the outgoings collected by him from the allottees before transferring the property to such allottees, the promoter shall continue to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authority or person to whom they are payable and be responsible for the cost of any legal proceedings which may be taken therefore by such authority or person.

Refund of amount

- (1) If the promoter fails or is unable to give possession, of a plot or building or an apartment,
 - (a) in accordance with the terms of the agreement or, as the case may be, duly completed by the date specified therein or any further date agreed to by the parties; or
 - (b) due to discontinuance of his business as a promoter on account approvals being revoked by competent authority or any other reason.

he shall be liable on demand, without prejudice to other remedies to which he may be liable, to refund the amounts already received by him in respect of that plot, building, or apartment with interest at a rate not exceeding the current rate of interest.
- (2) The interest referred to in sub-section (1) shall be chargeable from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded and such amount and interest shall be a charge on the land and other structures thereon.

Promoter's responsibility to maintain accounts, registers and records and to get his accounts audited

- (1) A promoter shall maintain accounts, register and records and make them available for inspection by the allottee or the association of allottees.

AUDIT

- (2) The promoter or estate agent or contractor, as the case may be, shall get his accounts audited within six months after the close of every financial year by a Chartered Accountant, and shall produce a statement of accounts duly certified and signed by such chartered accountant and it shall be verified during the audit that the amounts collected for a particular purpose have been utilized for that purpose.

Email:- chairman-glc.goa@nic.in
Website: <http://www.goalawcommission.gov.in>
Tel.No. : 0832-2416124, 2416156