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SECRETARIAT  
OF  
THE ODISHA LEGISLATIVE ASSEMBLY

NOTIFICATION

The 20th August, 2015

No.8747/L.A.—The following Bill which has been introduced in the Odisha Legislative Assembly on the 20th August, 2015 is herewith published under rule 68 of the Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly for general information.

**THE ODISHA APARTMENT OWNERSHIP (AMENDMENT) BILL, 2015**

**A**

**BILL**

FURTHER TO AMEND THE ODISHA APARTMENT OWNERSHIP ACT,  
1982

BE it enacted by the Legislature of the State of Odisha in the Sixty-sixth  
Year of the Republic of India, as follows: —

- |                         |  |                       |
|-------------------------|--|-----------------------|
| Short title.            | 1. This Act may be called the Odisha Apartment Ownership (Amendment) Act, 2015.  |                       |
| Amendment of Section 2. | 2. In section 2 of the Odisha Apartment Ownership Act, 1982 (hereinafter referred to as the principal Act), for the words 'buildings' and 'building' the words 'apartments and properties' and 'apartment and property' shall, respectively, be substituted. | Odisha Act 1 of 1984. |

Amendment of  
Section 3.

**3. In the principal Act, in Section 3, —**

(a) in clause (e), the words “multi-storied” shall be omitted;  
and

(b) for clause (i), the following clause shall be substituted,  
namely: —

“(i) ‘Competent Authority’ means any officer or officers not below the rank of Deputy Collector as may be appointed by the State Government for the purpose of this Act;”.

(c) after clause(p), the following clause shall be inserted,  
namely: —

“(q) ‘sole owner’ or ‘all owners’ in relation to property intended to be submitted to the provisions of this Act, means who owns the land or building or both and includes successors, assignees or person, (whether designated as builder, contractor, promoter, developer or by any other name) or person acting as the holder of a power-of-attorney, who has been authorised by such owner to construct apartment or to construct or convert a building to apartment and sell all or some of the apartments to other persons;”.

Amendment of  
Section 5.

**4. In the principal Act, in section 5, —**

(a) after sub-section (2), the following sub-section shall be inserted, namely: —

“(2-a) Each apartment owner shall execute a deed of transfer of apartment in relation to his apartment in the manner and with such particular as may be prescribed for the purpose:

Provided that in case of first deed of transfer of apartment, the sole owner or all owners of the property, as the case may be, shall attach Occupancy Certificate as may be issued by the local authority where such certificate is required under any law for the time being

in force and other documents as required under this Act and the rules made thereunder.

*Explanation I.*— The expression “apartment owners” includes the persons who are owners of apartment before the date of commencement of the Odisha Apartment Ownership (Amendment) Act, 2014.

*Explanation II.*— For the purpose of this section “Occupancy Certificate” means certificate given under the relevant law, for the time being in force, that the building is fit for occupation”.

(b) in sub-section (3), for item (ii), the following item shall be substituted, namely: —

“(ii) execute and register an instrument in such form, in such manner and within such period as may be prescribed, undertaking to become a member of the Association of Apartment Owners and to comply with the bye-laws and with the covenants, conditions and restrictions set forth in the Declaration and in the deed of apartment.”.

Insertion of new Section 5A.

“Contents of the deed of transfer of apartment”.

**5.** In the principal Act, after Section 5, the following section shall be inserted, namely: —

**5-A.** (1) Every deed of transfer of apartment shall include the following particulars, namely: —

- (a) description of the land as provided in Section 12, the post office address of the property including page and date of executing the Declaration, the date and serial number of its registration under the Registration Act, 1908 and the date and other reference, if any, of its filing with the Competent Authority;
- (b) the apartment number of the apartment in the Declaration and any other data necessary for its proper identification;
- (c) statement of the use for which the apartment is intended and restrictions on its use, if any;
- (d) the percentage of undivided interest appertaining to the apartment in the common areas and facilities; and

(e) any further details which the parties to the deed may deem desirable to set forth consistent with the Declaration and required under this Act and the rules.

(2) A true copy of every deed of transfer of apartment shall be filed in the office of the Competent Authority”.

Amendment of Section 7.

**6.** In the principal Act, in sub-section (3) of section 7, the comma and words, “unless the property has been withdrawn from the provisions of this Act” shall be omitted.

Amendment of Section 8.

**7.** In the principal Act, in section 8, after the words “the Declaration” and before the words “and failure to”, the words “or in the deed of transfer of apartment” shall be inserted.

Amendment of Section 12.

**8.** In the principal Act, in Section 12, in sub-section (1),—

(i) for clause (a), the following clause shall be substituted, namely: —

“(a) details of the land including the right, title and interest thereon on which building are constructed or to be constructed and encumbrances, if any, over such land and whether the land is free hold or lease hold; and

(ii) after clause (j), the following clause shall be inserted, namely: —

“(j-a) an undertaking in such form as may be prescribed, for taking steps for formation of Association of Apartment Owners and transfer of his or their right, title and interest in the property within such period as specified in such undertaking ;”.

Amendment of Section 13.

**9.** In the principal Act, in Section 13, —

(a) in sub-section(1), after the words “amendments thereto” and before the words “and all instruments”, the comma and words, “all deeds of transfer of apartment” shall be inserted and following proviso shall be inserted, namely: —

“Provided that the Competent Authority may allow such further time not exceeding one month.”.

(b) for sub-section (2), the following sub-section shall be substituted, namely: —

“(2) The Competent Authority shall, on receipt of the Declaration or an amendment thereto or a deed of transfer of apartment or an instrument referred to in sub-section(1), after holding such inquiry as he may consider necessary, examine the same to ascertain whether, —

- (a) the concerned property is governed by this Act;
- (b) the Declaration, the amendment thereto, the deed of transfer of apartment or instrument is in order;
- (c) the sole owner or all owners and the purchaser of the apartment have complied with the provisions of this Act, rules and all the requirements prescribed under the relevant laws for the time being in force,

and within thirty days from the date of receipt of the same by an order in writing giving the reasons therefor, accept or reject the Declaration, the amendment thereto, the deed of transfer of apartment or the instrument.”.

(c) in sub-section(3),—

- (i) after the words “the amendment or” and before the words “the instrument” the words “deed of transfer of apartment or” shall be inserted; and
- (ii) after the words “he shall” and before the words “return the same”, the words and comma “ with an endorsement thereon in the manner as prescribed,” shall be inserted.

(d) for sub-section (4), the following sub-section shall be substituted, namely: —

“(4) Any person aggrieved by an order of rejection may prefer an appeal, before the State Government or an officer appointed by the State Government in this behalf, within thirty days from the date of such order or within such further period as may be allowed by the appellate authority on sufficient grounds being shown and the order of the appellate authority shall be final”.

Amendment of  
Section 14.

Powers and  
functions of  
the  
Competent  
Authority.

**10.** In the principal Act, for Section 14 including the marginal heading, the following section shall be substituted, namely: —

14.(1) Without prejudice to the powers and functions conferred under the other provisions of this Act, the Competent Authority shall have the following powers and functions, namely: —

(a) to direct the Association of Apartment Owners to repair or replace damage property within such period as may be specified in such direction failing which the Competent Authority may undertake the said work and expenses incurred for undertaking such work shall be recovered from the Association of Apartment Owners;

(b) to take such action as he may deem necessary including imposition of fine not exceeding one lakh rupees in case of failure by sole owner or all owners of a property to submit Declaration or amendment thereto or deed of transfer of apartment or instruments referred to in sub-section (1) of Section 13 or in case of failure by the apartment owner to comply with the bye-laws including payment of regular dues and with the covenant, condition and restriction set forth in the Declaration and the deed of transfer of apartment:

Provided that no order shall be passed under this sub-section without giving the parties concerned reasonable opportunity of being heard; and

(c) to exercise such other powers and functions as may be prescribed.

(2) Any person aggrieved by an order of the Competent Authority under sub-section (1), may prefer an appeal, before the State Government or an officer appointed by the State Government in this behalf, within thirty days from the date of such order or within such further period as may be allowed by the appellate authority on sufficient grounds being shown and the order of the appellate authority shall be final.”.

Amendment  
of section 15.

**11.** In the principal Act, in section 15, —

(a) in sub-section (1), for the words “or to the withdrawal of the property from the provisions of the Act under section 14”, the words “or the deed of transfer of apartment” shall be substituted; and

(b) after sub-section(2), the following sub-section shall be inserted, namely: —

“(3) The Registering Officer appointed under the Registration Act, 1908 shall refuse to register the instruments referred to in sub-section(1), if the instrument does not contain the certificate of endorsement of the Competent Authority on the body of the instrument referred to in sub-section (3) of Section 13.”.

16 of 1908.

Amendment  
of Section 19.

**12.** In the principal Act, Section 19 shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely: —

“(2) A sole owner or all owners, as the case may be, shall pay all taxes to the local authority on each of the apartment and the property until such owners transfer the property in accordance with the provisions of this Act and rules to the purchaser of the apartment or the Association of Apartment Owners.”.

Amendment  
of Section 23.

**13.** In the principal Act, in Section 23, for sub-section (1), the following sub-sections shall be substituted, namely: —

“(1) Whoever contravenes, any of the provisions of this Act or rules or order or direction issued thereunder or any bye law that may be framed or any covenant, condition or restriction set forth in the Declaration to which he is subject or is a party, shall, at the instance of the Manager or the Board of Managers on behalf of the Association of the Apartment Owners, or an aggrieved apartment owner or any person or in a proper case the Competent Authority, on conviction before the Judicial Magistrate First Class, be liable to a fine which may extend to one lakh rupees and in case of continuing contravention, to an additional fine which may extend to five hundred rupees for every day during which such contravention continues after the conviction.

(1-a) Chapters XII and XV of the Code of Criminal Procedure, 1973 shall, in so far as necessary, be applicable relating to the offences 2 of 1974. under this Act.”.

## STATEMENT OF OBJECTS AND REASONS

The Odisha Apartment, Ownership Act, 1982 (Odisha Act 1 of 1984) has been enacted with a view to making provision for ownership of an individual apartment and the matter incidental thereto since there is marked increase in number of Housing Schemes in the State. In course of administrations of the provisions of the Act over the years, it has been experienced that the provisions of the Act has not proved effective enough in safeguarding the interest of the apartment owners as well as improving administration of the apartments.

With a view to efficient management and control of apartment system, to safeguard the interest of the apartment owners, as also revenue of the Acts, it is proposed to amend the Odisha Apartment Ownership Act, 1982 to provide *interalia* that—

(a) the Competent Authorities will have also control over building constructed by any organisation, individuals, company or any other entities and to see whether sole owner or all owners and the purchaser of apartment have also complied with the requirement prescribed under the relevant laws in force, before making and endorsement on the instruments referred to in sub-section (1) of Section 13 of the Act for registration and shall have power for ensuring proper maintenance of the apartments by the Association of apartment owners and also to impose fine not exceeding one lakh rupees in case of failure by sole owner or all owners of a property to submit Declaration or amendment thereto or deed of apartment or failure of apartment owner to comply with the bye-laws etc;

(b) the aggrieved person shall have opportunity to prefer appeal to the State Government or an officer appointed by the State Government;

(c) definition of 'sole owner or all owners' as used in the Act shall include successor, assignees and also the builder, contractor, promoter, developer with any other name, so as not to escape from liability or responsibility imposed under the Act. Declaration furnished by the sole owner or all owners, as the case may be, shall contain details about the land including right, title, interest thereon and also relating to encumbrances, if any and it is also proposed that the sole owner or all owners, of the property shall pay all taxes to the local authority on each of the apartment and the property until such owner transfers the property to the purchaser or apartment or Association of apartment owners in order to protect revenue of the State;

(d) execution of deed of apartment and furnishing Occupancy Certificate granted under relevant law certifying the building fit for occupation which will be submitted to the Competent Authority for its examination;

(e) all apartment owners should furnish undertaking to become the members of the Association of Apartment Owners so as to compel them to comply with the bye laws and conditions restriction set forth in the Declaration as also in the deed of apartment;

(f) the registering officer shall have power to refuse to register the instrument unless such instrument contains a certificate of endorsement of the Competent Authority;

(g) enhanced penalties be imposed for contravention of any of the provisions of the Act, rules, orders, directions or any bye-law made thereunder from “five thousand rupees” to “one lakh rupees” and in case of continuing contravention, additional fine which may extend to “five hundred rupees” every day instead of “fifty rupees” every day so as to make the provisions stringent.

The Bill seeks to achieve the above objectives

**PUSPENDRA SINGH DEO**

*Member-in- Charge*

**A.K. SARANGI**

Secretary

Odisha Legislative Assembly