



K-RERA

Kerala Real Estate Regulatory Authority
A Statutory Authority established by the
Government of Kerala

K-RERA Synergy

**A Guide to Statutory Collaboration
in the Real Estate Sector of Kerala**

Whether you are a Homebuyer,
Developer, or a Real Estate Agent,
this leaflet will help you
understand the key provisions of
the Real Estate (Regulations and
Development) Act, 2016

About K-RERA

Over the past three decades, the Real Estate industry has expanded rapidly to meet the housing needs of the upwardly mobile middle class. It has become the second-largest employer in the country. However, due to the lack of regulations, the industry has faced numerous challenges leading to various issues.

The Real Estate Sector in India has been governed by multiple laws, enacted by both the Centre and the State. Such laws were mostly curative in nature from the customer's point of view. Due to the unregulated nature of the sector, many issues existed, such as a lack of transparency in project specifications, non-adherence to agreed project completion period, and deviations from agreed project components. As a result, customers have often been victims in such situations, leading to a decline in their trust in the sector.

This has necessitated the need for a regulatory law, which should be preventive rather than curative. The Parliament passed the Real Estate (Regulation and Development) Act in 2016 to address the need. Following this, Government of Kerala made the Kerala Real Estate (Regulation and Development) Rules in 2018 and established K-RERA (Kerala Real Estate Regulatory Authority) towards the end of 2019. In exercise of the powers conferred under section 85 of the Real Estate (Regulation and Development) Act in 2016, the Authority promulgated the Kerala Real Estate Regulatory Authority (General) Regulations, 2020.

K-RERA aims to create professionalism and transparency in the industry and a safe and trustworthy Real Estate environment, making the sector much more friendly for buyers and sellers.

Key Features

Registration

Every promoter shall register Real Estate projects with K-RERA before advertising/ marketing/ booking/ selling/ offer for sale. Projects which are ongoing as of 1st May 2017 are also registrable. Registration is required for projects where the area of land proposed to be developed exceeds five hundred square meters or the number of apartments proposed to be developed exceeds eight even if the land area proposed to be developed is below 500 sq. m. Any Real Estate Agent who facilitates the sale or purchase of such Real Estate projects should also register with the Authority. The registration, which is online, requires uploading of all documents including land details, permits, project plans,

layout, specifications, NOCs, details of the promoter, project completion date, etc. These reports and details are in the K-RERA web portal thereby ensuring transparency and enable the buyers to make an informed decision. All the advertisements, and marketing/ publicity materials of the project should display the RERA registration number.

◆ **Designated Account**

The promoter shall transfer 70% of the amount received from the allottees for the project in a separate account. Amount from that account can be withdrawn only based on a certificate of progress by an Engineer, Architect, and Chartered Accountant. This ensures that no funds are misappropriated/ diverted.

◆ **Monitoring by RERA**

The Authority is empowered to monitor the Real Estate Projects through quarterly project reports, annual audit reports, and if necessary, through inspection. These details are in the K-RERA web portal which is available through public search.

◆ **Dispute Resolution**

The Authority is also empowered to resolve disputes between buyers, developers, and agents through a quasi-judicial proceedings by issuing enforceable orders and directions. Any aggrieved person can file a complaint with the Authority or the Adjudicating Officer against any promoter, allottee, or Real Estate Agent for any violation or contravention of provisions of the Act, Rules, and Regulations.

◆ **Imposition of Penalty**

The Authority is empowered to impose a penalty through a quasi-judicial proceedings, if any promoter, allottee, or Real Estate Agent violates provisions of the Act, Rules, or Regulations, which may extend up to 10% of the project's estimated cost in case of non-registration of the projects, upto 5% of the project cost for other violations.

◆ **Allottees' Association**

The promoter shall facilitate the formation of a Registered Allottees' Association once 50% of the units are booked. Once the project is completed the promoter shall transfer all the common areas to the Registered Association. The Registered Association shall take care of the maintenance and management of the common areas in the future.



Transparency Measures

- ◆ Land Details, Project plans, layout, specifications, NOCs, and project progress are available for public search through the K-RERA web portal.
- ◆ Allottees have the right to receive copies of all documents, while the association can receive originals of all documents and plans, including those of common areas.
- ◆ The promoter of a Real Estate project must deposit 70% of the amounts realized from the allottees from time to time. Once this is done, an annual report on the statement of accounts in Form No. 5 must be prepared, certified, and signed by a Chartered Accountant in practice. The promoter must then upload this report to the allotted webpage on the website of the Authority on or before 31st October every year until the project is completed. This report is available to the public through web portal.
- ◆ Every project promotion or advertisement shall contain a Quick Response (QR) code and the registration number and website address of K-RERA. The scanning of the QR code leads to the web page of the project.

Functions of the Authority

- ◆ To register and regulate Real Estate Projects and registered Real Estate Agents;
- ◆ To publish and maintain a website of records, for public viewing, of all Real Estate projects for which registration has been given, with such details as may be prescribed, including information provided in the application for which registration has been granted;
- ◆ To maintain a database, on its website, for public viewing, and enter the names and photographs of promoters as defaulters including the project details, registration for which has been revoked or have been penalized under this Act, with reasons therefore, for access to the general public;
- ◆ To maintain a database, on its website, for public viewing, and enter the names and photographs of Real Estate Agents who have applied and registered under this Act, with such details as may be prescribed, including those whose registration has been rejected or revoked;
- ◆ To ensure compliance with the obligations cast upon the promoters, the allottees, and the Real Estate Agents under this Act and the Rules and Regulations made thereunder;

- ◆ To perform such other functions as may be entrusted to the Authority by the appropriate Government as may be necessary to carry out the provisions of this Act.

Responsibilities of the Promoter

- ◆ Enter into a registered agreement for sale in the prescribed format before receiving 10 percent or more of the cost of the apartment/plot/ villa/shop.
- ◆ 70% of funds received from allottees must be deposited in a designated bank account for the project. The withdrawals can be made only based on the certificate based on progress report of the work by an Engineer, an Architect, and a Chartered Accountant.
- ◆ Upload physical and financial project progress including the number of bookings on the K-RERA website every quarter.
- ◆ Adhere to sanctioned plans and project specifications. Any changes or additions to the approved plans, layout, or specifications of the building or common areas within the project can only be made with the prior written consent of at least two-thirds of the allottees, excluding the promoter.
- ◆ Rectify any structural defect or any other defect in workmanship, quality, or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development up to a period of five years from the date of handing over the apartment.
- ◆ If the promoter fails to give possession of the apartment, plot, or building, as per the terms of the agreement, or discontinues the business due to suspension or revocation of registration under this Act or related Rules and Regulations, then he is liable to do a refund of the amount paid along with interest at a prescribed rate and compensation, as provided by this Act. In case the allottee wants to continue with the allotment, the promoter should pay an interest for delay. The interest rate prescribed in both cases is the Benchmark Prime Lending Rate (BPLR) of State Bank of India plus two percent.
- ◆ Facilitate the formation of an Allottees' Association within three months of the majority of allottees' booking.
- ◆ Obtain Occupancy Certificate from the Competent Authority, upload the same to the webpage of the project, and make it available to the Allottees' Association.
- ◆ Execute Conveyance Deed in favour of allottees within three months from the date of receipt of Occupancy Certificate.

- ◆ Hand over the originals of all project-related documents to the Allottees' Association before exiting the project.
- ◆ Transfer all the common areas to the Allottees' Association completion of the project.
- ◆ Get the project accounts audited within six months of the end of every financial year by a practicing chartered accountant and the same shall be uploaded to the K-RERA website and is available to the public.
- ◆ Shall not transfer or assign the project to a third party without getting the prior written consent of at least two-thirds of the allottees and prior permission of the Authority.

Rights of allottees

- ◆ Have the right to obtain all information about the project such as copies of sanctioned plans, layout approvals, and specifications approved by the Competent Authority and copies of all documents such as Title Deeds.
- ◆ Need not give the promoter an advance exceeding 10% of the cost of the apartment, plot, or villa without entering into a written, registered agreement for sale in the prescribed format.
- ◆ If the promoter fails to give possession of the apartment, plot, or building, as per the terms of the agreement, or discontinues the business due to suspension or revocation of registration under this Act or related Rules and Regulations, then the allottee can claim the refund of the amount paid along with interest at a prescribed rate and compensation, as provided by this Act. In case the allottee wants to continue with the allotment, he can claim interest for delay. The interest rate prescribed in both cases is the Benchmark Prime Lending Rate (BPLR) of State Bank of India plus two percent.
- ◆ Have the right to take possession of the apartment and execute the Conveyance Deed within three months of receiving the Occupancy Certificate.
- ◆ If the developer fails to provide possession of the completed project on the agreed date, the buyer can claim interest for delay or receive a refund of the paid amount along with interest by filing a complaint with K-RERA.



Duties of allottees

- ◆ Every allottee is responsible for paying monthly instalments to the promoter in the manner and within the time as specified in the registered agreement for sale, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges if any. He/ She shall be liable to pay interest for any delay to the promoter in payment towards any amount or charges to be paid as specified in the registered agreement for sale. The interest rate prescribed is the Benchmark Prime Lending Rate (BPLR) of State Bank of India plus two percent.
- ◆ Shall join as a member of the Association of Allottees.
- ◆ Shall pay common area maintenance charges to the Association.
- ◆ Shall take possession of the apartment within two months of receiving the Occupancy Certificate for the project and execute the Conveyance Deed within three months of receipt of Occupancy Certificate.

Filing of complaints before the Authority

- ◆ Any aggrieved person may file a complaint with the Authority or the Adjudicating Officer against any promoter, allottee, or Real Estate Agent for any violation or contravention of the Act, Rules, and Regulations provisions.
- ◆ A Registered Association of allottees or any voluntary consumer association registered under any law for the time being in force can also file complaints.
- ◆ Complaints seeking any relief other than compensation shall be filed before the Authority in Form M prescribed under the Rules.
- ◆ The fee prescribed for filing a complaint/claim for compensation is Rs 1,000 which can be paid as a demand draft, drawn in favour of the Kerala Real Estate Regulatory Authority payable at Thiruvananthapuram.
- ◆ Three sets of complaints shall be submitted along with sufficient copies depending on the number of respondents.
- ◆ The complainant can appear in person or through an advocate/ Vakalath/ CA for promoter/ or through an authorized person authorized through Form no. 7 prescribed under the Regulations.
- ◆ Claim for refund of the paid amount with interest shall be filed before the Authority, whereas a claim for compensation shall be heard by the Adjudicating Officer.

Filing of compensation claims before the Adjudicating Officer

- ◆ If an allottee is affected by false/misleading advertisements/brochures/prospectus/notice from the promoter, he shall be compensated by the promoter.
- ◆ An allottee can file a compensation claim when there is deviation/change from the approved plan by the promoter without the consent of the allottee and for non-curing of defects within five years of handing over possession.
- ◆ An allottee can file a compensation claim when the promoter fails to complete the construction and hand over possession as promised only when he withdraws from the project upon the lapse of the registration or on the revocation of the registration under this Act.

Appeals

The State Government, the Competent Authority, or any person aggrieved by any direction, order, or decision of the Authority or the Adjudicating Officer may prefer an appeal to the Appellate Tribunal. Every appeal shall be preferred within sixty days from the date of receipt of the order.

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