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34th KSCAA
ANNUAL CONFERENCE
2022

20th & 21st MAY 2022
RAVINDRA KALA KSHETRA,
BENGALURU



May 2022

**RERA Authority Regulator And
Promoter of the Real Estate
(Part – 12 of RERA Series)**

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RERA AUTHORITY REGULATOR AND PROMOTER OF THE REAL ESTATE

(PART - XII OF RERA SERIES)

RERA

Completed 5 years and stepping into 6th year of implementation of RERA, yes, it's half a decade of implementation. In these years most of the stakeholders have experienced the regulatory part of the Authority. However, there exists an inbuilt provision in the RERA Act, where the Authority shall play a role in the development of the industry. So, the name of the Act is the Real Estate (Regulation and Development) Act, 2016.

The Real Estate Regulatory Authority (in short RERA) performs administrative, quasi-judicial, penal, regulatory, compliance, advocacy, and awareness programs, and make necessary recommendation to the government. These efforts and functions result in the overall development of the real estate industry. The Authority is vested with a bundle of powers to perform the functions under the Act.

The Real Estate Regulation Authority establishes, and its functions are as per section 20 to section 40 under chapter V of the RERA Act.

About Karnataka Real Estate Regulatory Authority -

As per Section 20 (1) of the Real Estate (Regulation and Development) Act, 2016 (RERA Act), Interim Real Estate Regulatory Authority was established on 14-July-2017 and was functioning till 06-March-2019.

Vide Government notification No. DOH24RERA2017 dated 05-March-2019, the regular Karnataka Real Estate Regulatory Authority is established and functioning from 07-March-2019.

Appointment, Composition, Qualification, Tenure of RERA

Section	Details	Provisions of the Act
Section 21	Composition of RERA Authority - In order to perform the functions and exercise powers	Authority shall consist of a (a) Chairperson and (b) minimum 2 whole-time members to be appointed by the State Government.
Section 22	Selection, the composition of the Chairperson and Members of Authority	(a) Such chairperson and other members of the Authority shall be appointed by the state government on the recommendations of a selection committee consisting of – i. the chief justice of the High court or his nominee, ii. the secretary of the Housing Department and iii. the Law Secretary.
	Qualification of the Chairperson and Members of Authority	(a) Shall have knowledge of and professional experience of - i. Minimum 20 years for Chairperson ii. Minimum 15 years for members (b) In the field of Urban Development, Housing, real estate development, infrastructure, economics, technical experts from the relevant fields of planning, law, commerce, accountancy

Section	Details	Provisions of the Act
		industry, management, social service, public affairs, or administration.
	Past Positions held / Experience	(a) For Chairperson - i. Shall not be appointed unless has held the post of Additional Secretary to the Central Government or any equivalent post in the central or State Government (b) For members - ii. Shall not be appointed unless has held the post of Secretary to the State Government or any equivalent post in the central or State Government
Section 23	Term or Tenure of office Chairperson and Members	(a) Not more than 5 years Or (b) Until they attain the age of 65 years whichever is earlier and not be eligible for re-appointment
Section 28	Officers and other employees of the Authority	(a) State Government may, in consultation with the Authority appoint such officers and employees for the efficient discharge of their functions under this Act (b) Such functions shall be discharged under the general superintendence of the Chairperson

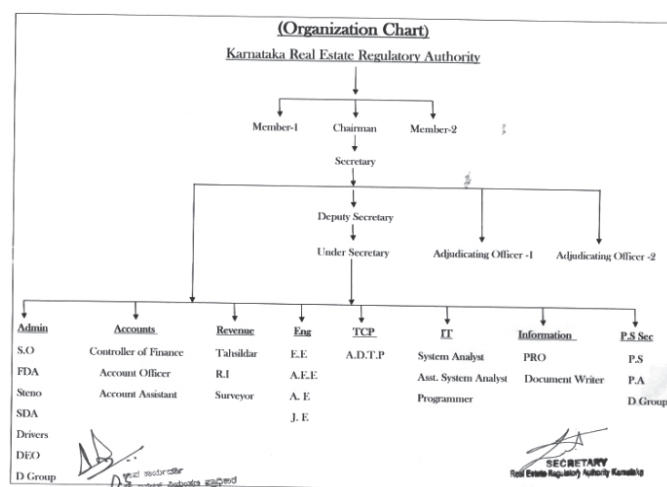
Functions and Powers of RERA Authority under the Act

Sl No	Section	Details	Details
1	Sec 32	Functions of Authority for promotion of real estate sector	To promote and develop the overall of real estate industry

Sl No	Section	Details	Details
2	Sec 33	Advocacy and awareness measures	Creating awareness and imparting training about laws relating to the real estate sector and policies
3	Sec 34	Functions of Authority	In relation to RERA viz., registration of projects, agents, complaints – a. Maintain Website and database b. Regulations and fixation of fees c. Ensure Compliances under the Act are complied by the promoter, agent, and the allottees
4	Sec 35	Powers of Authority to call for information, conduct investigations	Investigating – the proceedings are as vested in a civil court under the Code of Civil Procedure, 1908, which includes – a. Production of books of accounts and other documents b. Summoning and enforcing the attendance of the person c. Issuing commissions for the examination
5	Sec 36	Power to issue interim orders	Issue interim order to promoters, allottees, and agents during an inquiry/ proceedings - restrain any promoter, allottee, or real estate agent from carrying on such activities until the conclusion of such inquiry or until further orders
6	Sec 37	Powers of Authority to issue directions	Issue directions to promoters, allottees, and agents during an inquiry/ proceedings

Sl No	Section	Details	Details
7	Sec 38	Powers of Authority regarding Penalty and Interest	Power to impose a penalty on the promoter, allottees, or agent for contraventions under the Act – Refer Section 59 to section 64. The Penalties under the Act are up to 10 % of the estimated cost of the real estate project.
8	Sec 39	Rectification of orders	For the Mistakes apparent on orders within 2 years from the date of the orders made under the Act. Authority shall not while rectifying any mistake apparent from the record, amend the substantive part of its order passed under the provisions of the Act.
9	Sec 40	Recovery of interest or penalty or compensation and enforcement of the order, etc	Such recovery is on account of non-payment of interest, penalty, or compensation as may be prescribed as arrears of land revenue – If a promoter or an allottee or a real estate agent, as the case may be, fails to pay any interest or penalty or compensation imposed on him, by the adjudicating officer or the Regulatory Authority or the Appellate Authority

Present Organisation Structure of Karnataka RERA –



Functions of The Authority for promotion of real estate sector - Section 32

The Authority shall in order to facilitate the growth and promotion of a healthy, transparent, efficient, and competitive real estate sector make recommendations to the appropriate Government of the competent authority, as the case may be, on –

- Protection of interest of the allottees, promoter, and real estate agent;
- Creation of a single window system for ensuring time bound project approvals and clearances for timely completion of the project;
- Creation of a transparent and robust grievance redressal mechanism against acts of omission and commission of competent authorities and their officials;
- measures to encourage investment in the real estate sector including measures to increase financial assistance to the affordable housing segment;
- measures to encourage construction of environmentally sustainable and affordable housing, promoting standardization and use of appropriate construction materials, fixtures, fittings, and construction techniques;
- measures to encourage grading of projects on various parameters of development including grading of promoters;
- measures to facilitate amicable conciliation of disputes between the promoters and the allottees through dispute settlement forums set up by the consumer or promoter associations;
- measures to facilitate digitization of land records and system towards conclusive property titles with title guarantee;
- to render advice to the appropriate Government in matters relating to the development of the real estate sector;
- Any other issue that the Authority may think necessary for the promotion of the real estate sector.


Conclusion – The Act, and Rules have carefully drafted and considered various aspects for the Authority (Regulator) to function to Regulate and Promote the Industry. The Authority has many powers under the Act and plays a vital role in recommending the government in the interest of all stakeholders.

Important and Recent Judgements under RERA –

Order Date	Order by	The gist of the Order
04.03.2022	Hon'ble Rajasthan High Court in the matter of Sanjay Ghiya v/s Union of India & Ors	Held that CHARTERED ACCOUNTANTS or COMPANY SECRETARIES Or COST ACCOUNTANTS are authorised to present case on behalf of applicant or appellant or respondent before Appellate Tribunal or the Regulatory, Authority or the adjudicating officer as the case may be. As per Sec 56 of the Act – the word respondent was missing
20.04.2022	Punjab & Haryana HC – M/s. Experion – Developers Private Limited V/s. State of Haryana & Others	Merely Obtaining 'Occupancy Certificate' Before S.3 RERA came into force Would Not Oust Jurisdiction Of Regulatory Authority: Punjab & Haryana HC The Court has differentiated that mere obtaining the Occupancy certificate does not mean the project is completed. Further, it has been deliberated that RERA Act mandates the Completion Certificate and not the Occupancy Certificate. RERA Act 2016 defines Occupancy Certificate and Completion Certificate U/s. 2 – both have a different definitions and different intentions.

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For further information / clarification, please feel free to contact us:
CA Kiran Boal: 98803 93743 | 080 2226 4742 | wecare@wealthlab.co.in

Achieve your Financial Goals with proper Financial Planning

RERA

KSCAA Welcomes New Members
April 2022

Sl. No.	Name	Place
1	K Kaushik Raj	Bengaluru
2	Kiran M G	Bengaluru
3	Kambala Vineeth Reddy	Bengaluru
4	Vivian Donald Dsa	Bengaluru
5	Raghavendra Nayak	Bengaluru
6	Venkataramana Kini	Mangalore
7	Deepak Kumar Vagreacha	Bengaluru
8	Kishor Singh	Bengaluru
9	Pradeep Kumar B H	Bengaluru

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