

THE HARYANA REGULATION OF PROPERTY DEALERS AND CONSULTANTS BILL, 2008

A

BILL

To regulate the functioning of property dealers, property consultants and estate agents, to promote appropriate standards of conduct and competency for persons engaged in property dealings and to protect in the interests of persons using the services of the property dealers, property consultants and estate agents and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of the State of Haryana in the Fifty-ninth Year of the Republic of India as follows:-

1. (1) This Act may be called the Haryana Regulation of Property Dealers and Consultants Act, 2008.
- (2) It extends to whole of the State of Haryana.
- (3) It shall come into force on such date, as the State Government may, by notification in the official Gazette, appoint.

2. In this Act, unless there is anything repugnant in the subject or context-
 - (a) 'Collector' means the Collector of the District or any officer specially appointed or empowered by the State Government under this Act;
 - (b) 'Commission' means the sum received by the property dealer in the shape of remuneration at the rates notified by the State Government from time to time;
 - (c) 'Commissioner' means Commissioner of the Division concerned.;
 - (d) 'immovable property' includes land, plot, buildings, flats and things attached to the earth permanently, but does not include standing timber, crop or grass;
 - (e) 'landlord' means a person who owns property under whom a tenant holds immovable property and to whom the tenant is, or but for a special contract would be liable to pay rent for that land or building
 - (f) "License" means a license granted under section 4 and 5 of this Act.
 - (g) "Prescribed" means prescribed by rules made under this act.
 - (h) "property dealer" means any person or a company registered under the companies Act, 1956 (Act 1 of 1956) or a society registered under the societies Registration Act, 1860 (Act 21 of 1860) or a firm registered under the Indian partnership Act, 1932 (Act 9 of 1932) and has been granted a license under section 4 and 5 of this act and discharges the responsibility of getting deal finalized or negotiating for the sale, purchase, exchange letting or taking on lease of or any other dealing with, the buyer and seller, lessor and lessee, landlord and tenant, in respect of any immovable property and gets commission as remuneration and includes a property consultant and estate agent.
 - (i) "rent" means whatever is payable to a landlord in money kind or service by a tenant on account of the use or occupation of immovable property held by him.
 - (j) "State Government" means the government of the state of Haryana in the Administrative Department,
 - (k) "Tenant" means a person who holds immovable property under another person and is or but for a special contract would be liable to pay rent for that's property.
 - (l) "Trust money" means money received by the property dealer from the purchaser in order to finalize the deal which shall be part of consideration.

Licensing of property dealer

3. After commencement of this Act-

- (i) no property dealer or his representation partner or any employer shall enter into transaction of sale, purchase, exchange letter or taking on lease between the buyer and seller, lessor and landlord and tenant, including collection of rent in respect of the immovable property, with anybody in any manner without obtaining a license.

- (ii) no property dealer or his representative, partner or any employee shall purchase, either directly or indirectly, any immovable property for which he has received or may receive commission from the owner of such property, except with the prior permission of the collector.

Grant, renewal or revocation of license.

- 4 (1) An application for the grant or renewal of a license made to the collector in such form and manner, accompanied with such fee may be prescribed.
- (2) The Collector may revoke at any time a licence on the following grounds, namely :-
- a) Breach of any terms and conditions of the licence and rules,
 - b) Giving wrong information at any stage;
 - c) Irregularity in maintenance of record, as may be prescribed;
 - d) Including in malpractices and unfair dealings, as may be prescribed;
 - e) Failure to deposit the copy of agreement to sell between the parties with the collector;
 - f) Failure to give the details of commission to the collector in each dealing;

Provided that no licence shall be revoked without giving the aggrieved person an opportunity of being heard.

- (3) No property dealer whose license has been revoked shall be employed in any capacity with any other property dealer.

5. A licence shall be granted on such terms and condition, as may be prescribed.

(Terms & conditions of Licence)

6. Any dispute arising between the property dealer and any of the parties to the deal under this act or the rules framed there under shall be decided by the collector on an application made by the aggrieved person in such form and manner, as may be prescribed.

(Settlement of Dispute)

7. Any person aggrieved by an order made by the collector may, within a period of sixty days of communication to him of such order refer an appeal to the commissioner, in such form and manner, as may be prescribed.

(Appeal)

Provided that the commissioner may entertain an appeal after the expiry of the said period of sixty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

8. Notwithstanding anything contained in the foregoing section, the state government may, suo motu, at any time or on an application received in this behalf from any of the parties, call for the record of any proceedings or order of any subordinate authority for the purpose of satisfying as to the legality or propriety of last proceeding or order and may modify or reverse or remand or pass such order in relation thereto as it may deem fit:

(Revision)

Provided that no such order reversing or modifying any proceeding or order of subordinate authority affecting any question or right of any party shall be passed without giving such party an opportunity of being heard.

Bar of jurisdiction

9. No civil court shall have jurisdiction to entertain, proceed, settle, decide or deal with any matter which is required to be settled, decided or dealt with under this act by the authorities empowered there under.

Power to remove difficulties.

10. If any difficulty arises effect to the provisions of this Act the state Government may by an order published in the official Gazette make such provision or give such direction not inconsistent with the provision of this Act as may appear to it to be necessary or expedient for removing the difficulty.

Mode of recovery of amount and penalty

11. The amount or other sum payable under this Act and the amount of any penalty imposed under this Act may be recovered as arrears of land revenue.

Protection of action taken in good faith.

12. No suit prosecution or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under or in pursuance of this Act or any rules made there under.

Officers to be public servants.

13. Every officers and official acting under or in pursuance of the provisions of this act or any rules made there under shall be deemed to be a public servant WITH IN THE MEANING OF SECTION 21 OF THE INDIAN Penal Code 1860 (central Act 45 of 1860).

Procedure

14. In all enquires and proceedings under this Act the collector shall have such powers and follow such procedures as may be prescribed

Correction of clerical errors.

15. Clerical or arithmetical mistakes in any order passed by any officer or authority under this act or errors arresting therein from any accidental slip or omission may at any time be corrected by such officer or authority either on his own motion or on an application received in this behalf from any of the parties.

16. Any officer or authority holding an enquiry or hearing an appeal under this Act shall have the powers of a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), relating to -

- (a) proof of facts by affidavits
- (b) enforcing attendance of any person and his examination on oath.
- (c) production of documents.

and every such officer or authority shall be deemed to be a civil court.

17. (1) Any person who contravenes any provision of this Act or any rule made thereunder, shall be punishable on first conviction with imprisonment of either description for a term which may extend to six months and with fine which may extend to ten thousand rupees and in the event of second or subsequent conviction with imprisonment for a term of not less than one year but which may extend to two years and also with a fine not less than twenty-five thousand rupees which may extend to fifty thousand rupees.

- (2) Any person or company or society found indulging in the property dealing or property consulting business, without having a valid license under this act shall be punished by such authority as may be prescribed with a fine of fifty thousand rupees in case of an individual or one lac rupees in case of a society company or any organization and shall also be liable to pay all the benefits so received and the damages suffered by the affected party while dealing with the property for which commission has been paid by any party to the deal.

18. (1) The state govt. may by notification in the official gazette make rules for carrying out the purpose of this act.

- (2) In particular and without prejudice to the generality of the foregoing power such rules may provide for:

- (a) The form and manner and the fee for grant or renewal of license under section 4;
- (b) The terms and conditions of grant of license under section 5;
- (c) The form and manner for filling application under section 6;
- (d) The form and manner for filling appeal under section 7;
- (e) The powers and procedures for enquiries and proceedings under section 14;
- (f) Any other matter which is to be or may be prescribed

- (3) Every rule made under this act shall be laid as soon as may be after is made before the house of state legislature while it is in session

19. Nothing contained in this act shall be deemed to affect the provisions saving contained in the registration act 1908(act 16 of 1908) Indian stamp act 1899 (act 2 of 1899) the transfer of property act 1882 (act 4 of 1882) the Indian penal code 1860 (act 45 of 1860) or any other law for the time being in force whether before or after the commencement of this act.

STATEMENT OF OBJECTS AND REASONS

It had become essential to regulate the functioning of property dealers so that the people accessing their services are not harassed and to put in place a proper system and procedure for compulsory registration of property dealers/ agent.

The present measure seeks to regulate the functioning of property dealers property consultants and estate agents to promote appropriate standards of conduct and competency for persons engaged in property dealings and to protect the interests of persons using the services of the property dealers property consultants and estate agents and for matters connected there with or incidental there to.