



The Assam Apartments (Construction and Transfer of Ownership) Act, 2006

Act 21 of 2006

Keyword(s):

Apartment, Association of Apartment Owner, Building, Common Areas and Facilities, Common Expenses, Common Profits, Declaration

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

ASSAM ACT NO. XXI OF 2007

(Received the assent of the President on 24th September, 2007)

THE ASSAM APARTMENTS (CONSTRUCTION AND TRANSFER OF OWNERSHIP) ACT, 2006

AN

ACT

to provide for the construction and transfer of apartment and to provide for ownership right for an individual apartment to the purchaser/lease holder and make such right as heritable and transferable.

Preamble

Whereas it is expedient to provide for the regulation of the haphazard and unplanned construction of apartment/ buildings in the areas covered by Guwahati Metropolitan Development area and all urban areas of Assam, to specify modalities of transfer of such apartment buildings and for the matters connected therewith and incidental thereto and to regulate the promotion of construction and sale of apartments in multistoried buildings on ownership basis and to provide for transferability and heritability by the individual purchaser not only for particular apartment but also the fractional interest to it on the common area and facilities.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :-

Short title, extent
and commence-
ment

1. (1) This Act may be called as Assam Apartments (Construction and Transfer of Ownership) Act, 2006.
- (2) It extends to the whole of Assam.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint, in respect of the areas, cities and towns as may be specified in such notifications :

Provided that different dates may be appointed for different areas, cities and towns or group of areas or cities or towns as the Government may deem fit and proper.

Application of
the Act.

2. (1) This Act shall apply to every apartment and / or building defined as such under section 3 of this Act ;

Provided that sole owner or all the owners of every such building shall submit the same to the provisions of this Act by duly executing and registering a declaration setting out the particulars referred to in section 12.

- (2) This Act shall also apply to all the promoters/ builders/ land owners/ purchasers and construction of all apartment buildings undertaken by such promoters /builders/ land owners/ purchasers who are required to execute and submit declaration before the Competent Authority in such manner as may be prescribed that he intends to submit the property wherein the apartment is or to be located, to the provisions of this Act.

Definitions

3. In this Act unless the context otherwise requires, -

- (a) "apartment" means part of a property intended for any type of independent use, including one or more rooms or enclosed spaces located on one more floor or part or parts thereof in a building intended to be used for residential, commercial or business or such other type of independent use as may be prescribed and with a direct exit to a public street, road, or highway or to a common area leading to such street, road, or highway;
- (b) "Association of Apartment Owner" or "Society of Apartment Owner" means the Association formed in accordance with the provisions made in the bye-laws ;
- (c) "building" means any construction for whatsoever purpose and of whatsoever materials and every part thereof, whether used as human habitation or not and includes plinth walls, chimney, drainage work, fixed platforms, verandah, balcony, cornice or projection or anything affixed thereto or any walls, earth bank, fence or other construction enclosing or delimiting or intended to enclose or delimit any land or space;
- (d) "Common areas and facilities" includes, :-
- (1) the land on which the building is located and all assessments along with free spaces,
 - (2) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes and entrances and exits at the building,
 - (3) the basements, cellars, yards, guard wall, gardens, parking areas, shopping centres, schools, garages, storages spaces, common hall and common room,
 - (4) the premises for lodging of janitors or person employed for the management of property,
 - (5) installations of common services, such as power, light, gas, hot and cold water, heating and refrigerating and air conditioning if centrally designed, sewerage etc.,
 - (6) the elevators, tanks, pumps, motors, fans, compressor, pipes and ducts and in general all installations existing for common use,
 - (7) such other common facilities as may be specially provided for in the declaration,
 - (8) all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use ;
- (e) "common expenses" means expenses of administration, maintenance, repair or replacement of the common area and facilities and all other sums assessed against the apartment owners by the Association of Apartment Owners ;
- (f) 'common profits' means the balance of all income, rents, profits and revenues from the common area and facilities remaining after the deduction of common expenses ;
- (g) "Competent Authority" means the Guwahati Municipal Corporation and Guwahati Metropolitan Development Authority respectively and in respect of other towns and areas, such officer or Authority as may be notified by the Government from time to time ;
- (h) "declaration" means the instrument by which property is submitted

to the provisions of this Act, as hereinafter provided ;

- (l) "Government" means the Government of Assam ;
- (j) "limited Common area and facilities" means those common area and facilities may be duly noted in the declaration as reserved for use of certain apartment or apartments to the exclusion of other apartments ;
- (k) "owner" in relation to any property or part thereof or apartment includes -
 - (i) any person owning such property or part thereof or an apartment, or
 - (ii) any person deemed to be owning such property or apartment, or
 - (iii) any promoter, or
 - (iv) a lessee of such property or part thereof or apartment, where the lease is for a period of thirty years or more :

Provided that any person who has executed an agreement for purchase or for taking lease for a period of thirty years or more, of any property or part thereof or apartment and has paid the consideration or part thereof, shall be deemed to be owning such property or part thereof or apartment, even though the document for purchase or lease of such property or part thereof or apartment has not been registered :

Provided further that where a society, company or other association of individuals is the owner of the property, the Manager, Director, President, Secretary or other officers of the society, company or other association of individuals shall be deemed to be the owner of such property within the meaning of the provisions of this Act ;

- (l) "property" comprises the land, the building and the common areas and facilities ;
- (m) " promoter" or " builder" means a person who has already constructed or intends to construct apartments for the purpose of transfer of such apartments building by a sale, lease or otherwise to any other persons, Government and Undertakings and includes his successor or assign ;
- (n) "person" includes a company, firm, a joint family, other association of persons and group housing co-operative society as the case may be ;
- (o) "prescribed" means prescribed by rules made under this Act.

Ownership of apartments.

4. (1) Every person to whom an apartment is sold or leased by the promoter on or after the commencement of this Act, shall, subject to the provisions of this Act, be entitled to the exclusive ownership and possession of the apartment so sold or leased to him.
- (2) Every person to whom any apartment was sold or leased by the promoter before the commencement of this Act, shall, subject to the provisions of this Act, be entitled on and from such commencement to the exclusive ownership and possession of such apartment so sold or leased to him.
- (3) Every person who becomes entitled to the exclusive ownership and possession of an apartment under sub-section (1) or sub-section (2) shall be entitled to such percentage of undivided interest in the common areas and facilities as may be specified in the declaration and such percentage shall be computed by taking, as a basis, the value of the Apartment in relation to the value of the property.

An apartment to be transferable and heritable property

5. (1) An apartment together with its undivided interest on the common area and facilities, shall constitute heritable and transferable immovable property within the meaning of the relevant law for the time being in force.

Provided that no apartment and the percentage of undivided interest in the common area and facilities of apartment shall be partitioned or sub-divided for any purpose whatsoever unless the property is withdrawn from the provisions of this Act under section 14.

- (2) Notwithstanding anything contained in the Transfer of Property Act, 1882, or in any other law for the time being in force, but subject to the provisions of section 14 of this Act, any person shall be the owner of the apartment, by, -

Central Act, 4 of 1862

- (a) purchase through a registered sale deed duly registered under section 17 of Registration Act, 1908.

Central Act, 16 of 1908.

- (b) taking lease for a period of not less than thirty years or more of an apartment comprised in a property, by a registered deed of lease registered under Section 17 of the Registration Act, 1908.

Central Act, 16 of 1908.

- (3) To effect sale or purchase or lease for more than one year of the said apartment, the Competent Authority shall determine and fix the proper market value of the apartments for sale or purchase and the annual rent for the purpose of transfer of the apartment on lease to the intending buyers or lease holders as the case may be, so that during transaction none of the parties i.e. the seller or the buyer or the lease holder as the case may be, could conceal proper valuation of the apartment to evade due payment of stamp duty and registration fee.

- (4) An instrument of sale or purchase or lease shall be registered in such manner and within such period as may be prescribed, undertaking to comply strictly with the bye-laws and with covenants, conditions and restriction set forth in the declaration.

Benamidar of an apartment to be deemed to be the real owner thereof

6. Where an apartment is transferred to one person for a consideration paid or provided by any other person for his own benefit, the transferee shall notwithstanding anything in the Transfer of Property Act, 1882 or in any other law for the time being in force, be deemed to be the real owner of such apartment, and no court shall entertain any claim of the person, paying or providing the consideration, for title in such apartment on the ground that he did not intend to pay or provide such consideration for the benefit of the transferee and that the transferee is benamidar, or on any other ground.

Central Act 4 of 1882

Common areas and facilities.

7. (1) Each apartment owner shall be entitled to an undivided interest in the common areas and facilities in the percentage expressed in the declaration. Such percentage shall be computed by taking, as basis, the value of the apartment in relation to the value of the property, and such percentage shall reflect the limited common area and facilities.

- (2) The percentage of the undivided interest of each apartment owner in the common areas and facilities as expressed in the declaration shall not be altered without the consent of all the apartment owners expressed in an amended declaration duly executed and registered as provided in this Act. The percentage of individual interest in the common areas and facilities shall not be separated from the apartment to which it appertains and shall be deemed to be conveyed or encumbered with the apartment even though such interest is not expressly mentioned in the conveyance or other instrument.
- (3) The common areas and facilities shall remain undivided and no apartment owner or any other person shall bring any action for partition or division of any part thereof, unless the property has been withdrawn from the provisions of this Act under section 14.
- (4) Each apartment owner shall use the common areas and facilities for the purpose for which they are intended without effecting or encroaching upon the lawful rights of other apartment owners.
- (5) The works relating to the maintenance, repair and replacement of the common areas and facilities and the making of any additions or improvement thereto shall be carried out in accordance with the provisions of this Act and the Bye-Laws made there under and other building bye-laws in force for according building construction permission.
- (6) The Association of Apartment Owners or the Society of Apartment Owners shall have irrevocable right to be exercised by the Secretary / President of the society on behalf of the association or society as the case may be, considers necessary to have access to each apartment from time to time during reasonable hours, as may be necessary for the maintenance, repair and replacement of any of the common areas and facilities therein or accessible there from or for making emergency repairs therein to prevent any damage to the common areas and facilities or to other apartments.
8. Each apartment owner shall comply strictly with the bye-laws, covenants, conditions and restrictions set forth in the declaration. Failure to comply with any of the same shall be a ground for an action to recover damages or for other relief at the instance of the President and Secretary on behalf of the Association or Society of Apartment Owners or in a proper case by an aggrieved apartment owner.
9. No apartment owner shall do any work which would be prejudicial to the soundness or safety of the property or would reduce the value thereof or impair any easement or hereditament or shall add any materials structure or excavate an additional leasehold or cellar without first obtaining the consent, in writing of all the other apartment owners.
10. During the period the property remains subject to this Act, no encumbrance of any nature shall be created against the property. During such period an encumbrance may, however, be created only against each apartment and the percentage of undivided interest from the common areas and facilities of the apartment, in the same manner as in relation to any other separate part of the property subject to individual ownership.

Compliance with
bye-laws,
covenants etc.

Certain work
prohibited

Encumbrances
against
apartments

Common profit
and expenses

11. Common profits of the property shall be distributed among and the common expenses shall be charged to the apartment owners according to the percentages of the undivided interest in the common areas and facilities.

Contents of
declaration

12. (1) The declaration referred to in section 2 shall be submitted in such form and in such manner, as may be prescribed, before the Competent Authority and shall contain the following particulars, namely :-

- (a) Description of the property ;
- (b) Nature of interest of the owner or owners in the property ;
- (c) Existing encumbrance if any, affecting the property;
- (d) Description of each apartment containing its location, actual built up area, numbers of rooms, immediate common area to which it has access and any other data necessary for its proper identification;
- (e) Description of common areas and facilities;
- (f) Description of the limited common areas and facilities, if any, stating to which apartment their use is reserved ;
- (g) Value of the property and each apartment and the percentage of undivided interest of the common areas and facilities appertaining to each apartment and its owner ;
- (h) Such other particulars as may be prescribed.

(2) The declaration referred to in sub-section (1) may be amended under such circumstances and in such manner as may be prescribed ;

A declaration or
an instrument to
be submitted
before the
competent
Authority and to
be dealt with by
him.

13. (1) Any declaration referred to in section 2 or any amendment thereto as any instrument referred to in sub-section (4) of section 5 shall, in the first instance be submitted, in duplicate, within fourteen days from the date of its execution, to the Competent Authority along with copies of site plans, building plans and relevant title deeds.

(2) On receipt of a declaration or an amendment thereto or an instrument referred to the sub-section (1), the Competent Authority shall, -

- (a) after holding such inquiry, if any as it may consider necessary for the purpose, examine the declaration, the amendment or the instrument, as the case may be, to be ascertain whether -
 - (i) the property concerned comes within the purview of this Act, and
 - (ii) the declaration, the amendment or the instrument is in order.
- (b) by an order in writing giving reasons therefore, accept or reject the declaration, the amendment or the instrument, and
- (c) in case of acceptance, immediately return the declaration, the amendment or the instrument, along with all the enclosures to the owner or owners, as the case may be, for registration, within fifteen days from the date of return.
- (d) In case of rejection, forthwith communicate the order of rejection to the owner or owners.

- (3) Any person, being aggrieved by an order of rejection under sub-section (2), may within thirty days from the date of such order appeal before the State Government, whose order on appeal shall be final ;

Provided that the appellate authority may allow, on sufficient grounds being shown in this behalf, to file an appeal after a period of thirty days, if it is satisfied that the delay was caused due to a situation which was beyond the control of the aggrieved person.

- (4) Any order referred to in clause (b) of sub-section (2) or in sub-section (3) shall not be called in question in any court of law.

Withdrawal from provisions of the Act

14. (1) All the apartment owners in respect of a building, may withdraw a property from the provisions of this Act at a time by an instrument executed to the effect, upon which the property shall be deemed to be the owner in common by the apartment owners and the share of each such owner in the property shall be the percentage of undivided interest previously owned by such owner in the common area and facilities.

- (2) Any encumbrance affecting any of the apartments shall be deemed to be transferred in accordance with the existing property to the percentage of the undivided interest of the apartment owner in the property as provided in this Act.

Withdrawal is no bar for re-submission of property to the Act.

15. The withdrawal of the property from the provisions of this Act under sub-section (1) of section 14 shall in no way be a bar for subsequent re-submission of the property to the provisions of this Act.

Instruments of declaration etc. compulsory registerable

16. All instruments relating to the declaration or any amendment thereto referred to in sub-section (2) of section 12 or the withdrawal of a property from the provisions of this Act as referred to in sub-section (4) of section 5 shall be deemed to be instruments compulsorily registerable within the meaning of clause (b) of sub-section (1) of section 17 of the Registration Act, 1908.

Central Act No. 16 of 1908.

Bye-Laws

17. (1) Every property shall be administered in accordance with such bye-laws as may be framed by the Competent Authority with the prior approval of the State Government.
- (2) The bye-laws shall provide for the following amongst other matters, namely –
- (a) the manner in which the Association of Apartment Owners is to be formed, the election of member of Board or society from among the apartment owners, the number of persons constituting the Board, the number of members of such Board or society to retire annually, the powers and duties of the Board or society, the honorarium, if any, of the members of the Board or Society, the method of removal from office of the members of the Board or Society, the power of the Board or Society to engage the services of a Secretary or Manager, delegation of power and duties to such Secretary or Manager,
- (b) method of calling meeting of the apartment owners and the number to constitute a quorum,

- (c) election of a President who shall preside over the meetings of the Board or Society and of the Association of Apartment Owners;
- (d) Maintenance, repair and replacement of the common areas and facilities and payments thereof;
- (e) manner of collecting share of the common expenses from the apartment owners;
- (f) any other matter considered to be necessary for the administration of the property ;

Separate assessment

18. Notwithstanding anything to the contrary in any other law for the time being in force, each apartment or a property, including its percentage of undivided interest in the common areas and facilities thereof, the owner of which does not own any other apartment in such property, shall be deemed to be a separate unit for the purpose of assessment of municipal rates and taxes.

Charges for common expenses of the property
Liability for unpaid common expenses

19. All sums assessed by the Association of Apartment Owners for the common expenses charge-able to any apartment shall constitute a charge on such apartment prior to all other charges, except charge, if any on the apartment as payment of municipal rates and taxes.

20. Upon the sale of an apartment, the purchaser of the apartment shall be jointly and severally liable with the vendor for all unpaid assessments against the latter for his share of the common expenses up to the time of the sale.

Removal of doubts

21. For removal of doubts, it is hereby declared that the provisions of Transfer of Property Act, 1882, shall, in so far as they are not inconsistent with the provisions of this Act, apply to every apartment together with its undivided interest in the common areas and facilities as these provisions apply in relation to any other immovable property and the provision of the Act shall have effect Notwithstanding anything to the contrary contained in any other law.

Central
Act No.
4 of
1882

Act to apply to housing Board and Housefed

22. The provisions of the Act shall also apply to the apartment being constructed by Assam State Housing Board, Housefed and any other Government or Semi Government Department and organizations.

General Liabilities of promoters

23. All the promoters or builders who intend to construct an apartment building shall submit before a Competent Authority details about themselves and about building to be undertaken by them in following manner. The Competent Authority shall display the same on notice board for the benefit of intending buyers of apartment. The Competent Authority after satisfying itself with the contents of said disclosures may allow the promoter to go ahead with the construction :-

- (a) Make full and true disclosure in writing of the nature of his interest in the land and on the building, if any, in which the apartments are to be constructed, and plan and specifications approved by the Local Authority as the case may be, or by the Urban Development Authority of the entire building of which the apartment forms a part ;
- (b) Make full and true disclosure in writing of all encumbrances, if any affecting such land or building ;
- (c) Disclosure and allow inspection of plans and the specification of

the entire building of which the proposed apartments form part and furnish copies thereof.

- (d) Disclosure in writing the particulars in respect of the materials, which have been or are proposed to be used in the construction of the building together with the details of all agreements entered into by him with the architects and contractors.
- (e) Specifying in writing the date by which possession of the apartment is to be handed over to such transferee.
- (f) Supplying in writing a list of all apartment which have already been taken or agreed to be taken together with their distinctive numbers, names and address of the transferee either actual or intended, the prices paid or charges by or upon the area and any other particulars or may be prescribed.
- (g) Make a full and true disclosure in writing of all outgoings including ground rent, if any, municipal or other local taxes, taxes on income, water charges and electricity charges, revenue assessment, interest on any mortgage or other encumbrance, if any, in relation to the land, building and the apartments.
- (h) Make a full and true disclosure in writing of such other information and documents including true copies of such documents as may be prescribed.
- (i) Deposit Earnest money @ Rs.0.5% of the apartment building, construction cost (excluding land cost) in the form of bank guarantee, fixed deposit at Nationalize Bank as the case may be, with the Competent Authority of which 0.5% shall be returned after the year from the date of completion of the building, subject to conditions that no complaints regarding construction defects is received within one year. The defects if any shall be rectified by the promoters or builders at his own cost. If defects are not rectified by the promoters immediately, the same shall be rectified by the buyers by utilizing the earnest money. In such event the earnest money shall be forfeited.

Agreement
before accepting
advance
payment

24. (1) Notwithstanding anything contained in any other law for the time being in force, a promoter or a builder who intends to transfer any apartment shall before accepting any changes from an intending transferee as advance payment or deposit, enter into a written agreement for sale with such transferee which shall be registered under clause (b) of sub-section(1) of section 17 of the Registration Act, 1908.
- (2) On completion of the apartment building the promoter or builder of apartment shall execute a registered deed of sale in favour of transferee as per provision of Registration Act, 1908. The execution and registration of the sale deed to be completed in such a manner and within a period as may be prescribed, from the date of handing over possession of the apartment to the transferee and full sum of consideration amount is received by the promoter/ builder. The transferor and transferee are bound to quote the value in the sale deed as fixed by Competent Authority as per Assam Public Works Department Schedule of Rates.

No additions or
alterations after
disclosure of
plans etc.

25. After the plans, specifications and the nature of the fixture, fittings and amenities are disclosed to an intending transferee under section 23, the promoter or builder shall not make any alteration therein.
- (i) if it affects a single apartment, without the previous consent in writing of that transferee who intends to take the said apartment, and
 - (ii) if it affects more than one apartment, without the previous consent in Writing of all the transferees who intends to take those apartments.

Central
Act. 16
of 1908

- Offences by promoter and builder
26. Any promoter who knowingly makes a false disclosure in respect of any of the matters referred to in clause (a), (b), (g) and (h) at section 23 or contravenes the provisions of section 25, shall on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend up to fifty thousand rupees, or with both.
- Offences by companies
27. (1) If the promoter or a builder committing an offence under this Act is a company, every person at the time of the offence was committed in charges of and 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.
- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act, has been committed with the consent or connivance of or is attributable to any negligence on the part of any Director or Manager, Secretary or other Officer, shall be deemed to be guilty of that offence and liable to be proceeded against and punished accordingly.
- Explanation : For the purposes of this Section
- a) 'Company' means a body corporate and includes a firm or other association of individuals.
- b) 'Director' in relation to a firm means a partner in the firm.
- Indemnity
28. No suit or other legal proceeding shall lie against the Government and no suit, prosecution or other legal proceeding shall lie against any Officer or Servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules made there under.
- Cognizance of offence
29. No court shall take cognizance of any offence under this Act except on complaint made with previous sanction of the Competent Authorities.
- Power to remove difficulties
30. If any difficulty arises in giving effect to the provisions of this Act, the State Government may make such order or do such thing, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.
- Delivery of possession to the purchaser or lessee free of encumbrances
31. (1) A promoter or builder shall on payment of the amount due by a purchaser or lessee in respect of the price of the apartment, execute and register a proper conveyance of the apartment in accordance with the agreement executed under this Act after discharging all encumbrances including the liability, if any, under the Assam Value Added Tax Act, 2003, and give possession of the apartment to the transferee.
- (2) The Registering Authority shall not register any such instrument of transfer unless the promoter produces the relevant documents in support of non-encumbrance or payment of tax etc. in respect of the apartment.

- (3) The promoter or builder shall be solely responsible for transfer or of title of land of the Association / Society of the Apartment Owners immediately after sale of 60% of the flats. The right over the land as the builder or promoter shall cease to exist immediately after selling off 60% of the flats. No promoter or builder can carry out any business of profit by establishing business establishment in the common areas after selling off 60% of the flats.
- Act to be binding on Apartment owners, tenants etc.
32. (1) All apartment owners, their tenant or employees or any other person that may in any manner use the property or any part thereof submitted to the provisions of section 2 shall be subject to this Act and the declaration or bye-laws shall be deemed to be binding on all the apartment owners.
- (2) All agreements, decisions and determinations lawfully made by the Association of Apartment Owners in accordance with the voting percentage specified in the declaration or bye-laws shall be deemed to be binding on all the apartment owners.
- (3) No apartment owner shall use the apartment for any purpose other than that for which the apartment has been constructed or permission was obtained.
- President / Secretary to cut off, withhold, curtail or reduce essential supply or service
33. The President or Secretary of an Association or a Society of Apartment Owners may, after due notice of not less than seven days, for just and sufficient cause, cut off, withhold or in any manner curtail or reduce any essential supply or service enjoyed by an apartment owner.
- Explanation :** In this section, essential supply or service includes the supply of water, electricity, rights in passage and on stair cases and rights and conservancy of sanitary service.
- Joint and Several liability.
34. Upon the sale of any apartment, the purchaser of the apartment shall be jointly and severally liable with the vendor for all unpaid assessment against the letter for his share of the common expenses upto the time of the sale without prejudice to the purchaser's right to recover the vendor the amount paid by him.
- Insurance
35. The President or Secretary of an Association or a Society of Apartment Owners, if so required by the declaration or the bye-laws or by a majority of the apartment owners, shall have the authority to and shall obtain insurance coverage for the property against loss or damage by fire and such other hazards and under such terms and for such amounts as shall be required. Such insurance shall be in the name of the President or Secretary of the Association or Society of Apartment Owners as trustee for each of the apartment owners in the percentage established in the declaration.
- Prohibition of selling, leasing and misuse of common areas or facilities
36. The promoters or owners of apartment shall not sell or lease out or misuse any common areas and facilities.
- Owner to provide fire devices
37. Every owner of an apartment in a building consisting of a ground floor, together with three or more floors on it shall be required to provide all the fire preventive devices in consultation with the Director General of Fire Service in the manner prescribed.

- | | |
|--|---|
| Electricity, water and drainage connection | 38. Every owner of an apartment shall be entitled to have electricity, water and drainage connection on a permanent basis only on payment of such fee as may be prescribed and on production of a certificate from the Competent Authority to the effect that the apartment has been constructed in accordance with the sanctioned plan. |
| Provision of overhead tanks | 39. Every owner of the apartment shall be provided with an overhead tank in the manner prescribed. |
| Provision for Harvesting rain water | 40. Every apartment / group housing scheme using underground water as their source of water shall provide provision for harvesting of rain water in the manner specified in the building bye-laws of that area or any other method approved by Competent Authority. |
| Act to override the agreements | 41. If any conflict or inconsistency arises between any provision of this Act and any agreement entered into between the promoter and the apartment owners, the provisions of this Act shall have overriding effect over such agreement. |
| Power to make rules | 42. (1) The State Government may make rules for carrying out the purpose of the Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before the Assam Legislative Assembly while it is in Session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before expiry of the session in which it is laid or the sessions immediately following, the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. |

MOHD. A. HAQUE,
Secretary to the Government of Assam,
Legislative Department.