



## Government Reviews RERA Functioning

**For Prelims:** Government Reviews RERA Functioning, [Real Estate \(Regulation and Development\) Act, 2016](#), State Level Regulatory Authorities, Real Estate Appellate Tribunal.

**For Mains:** Government Reviews RERA Functioning, Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

[Source: IE](#)

### Why in News?

The Ministry of Housing and Urban Affairs is in the process of reviewing the functioning of the [Real Estate \(Regulation and Development\) Act, 2016](#).

### What is RERA?

#### ▪ About:

- The **Real Estate (Regulation and Development) Act (RERA)**, is a significant legislation enacted by the Government of India in 2016.
- Its primary objective is to **regulate the real estate sector** and promote transparency, accountability, and **efficiency in real estate transactions**.
- RERA aims to protect the **interests of homebuyers and promote fair practices** in the real estate industry.

#### ▪ Need:

- **Securing the Largest Investment Sector:** Regulation of the real estate sector has been under **discussion since 2013**, and the RERA Act eventually came into being in 2016.
  - Data show that more than **77% of the total assets of an average Indian household are held in real estate**, and it's the single largest investment of an individual in his lifetime.
- **Creating Accountability:** Before the law, the real estate and housing sector **was largely unregulated**, with the consequence that **consumers were unable to hold builders and developers accountable**.
  - The Consumer Protection Act of 1986 was **inadequate to address the needs** of homebuyers.
  - RERA was introduced to ensure greater accountability towards consumers, **to reduce frauds and delays**, and to set up a fast track dispute resolution mechanism.

#### ▪ Major Provisions:

- **Establishment of State-Level Regulatory Authorities, i.e. Real Estate Regulatory Authority (RERA):** The Act provides for State governments to establish **more than one regulatory authority** with the following mandate:
  - Register and maintain a database of real estate projects; publish it on its **website for public viewing**,
  - Protection of interest of promoters, buyers and real estate agents

- Development of **sustainable and affordable housing**,
- Render advice to the government and **ensure compliance with its Regulations and the Act.**
- **Establishment of Real Estate Appellate Tribunal:** Decisions of RERAs can be appealed in these tribunals.
- **Mandatory Registration:** All projects with a plot size of a **minimum of 500 sq. mt** or eight apartments **need to be registered with Regulatory Authorities.**
- **Deposits:** Depositing 70% of the funds collected from buyers in a separate [escrow bank](#) account for **construction of that project only.**
- **Liability:** Developer's liability to **repair structural defects** for five years.
- **Penal interest in case of default:** Both promoter and buyer are liable to pay an equal rate of interest in case of any default from either side.
- **Cap on Advance Payments:** A promoter cannot accept more than 10% of the cost of the plot, apartment or building as an advance payment or an application fee from a person without first entering into an agreement for sale.
- **Carpet Area:** Defines Carpet Area as **net usable floor area of flat.** Buyers will be charged for the carpet area and **not the super built-up area.**
  - The **built-up area refers** to the **total floor area of a building, including all interior and exterior spaces** such as walls, balconies, common areas, and amenities.
- **Punishment:** Imprisonment of up to three years for developers and up to one year in case of agents and buyers for **violation of orders of Appellate Tribunals and Regulatory Authorities.**
- **Implementation:**
  - All States/ UTs have notified Rules under RERA **except the State of Nagaland.**
  - **32 States/UTs have set up a Real Estate Regulatory Authority** and 28 States/UTs have set up a Real Estate Appellate Tribunal.
  - 1,01,304 Real Estate Projects & 72,012 Real Estate Agents have been registered under the provisions of RERA and 1,06,657 complaints have been successfully disposed of by the Real Estate Regulatory Authorities across the country.

## What is the Status of Home Buyers and Builders under the IBC?

- Under the [Insolvency and Bankruptcy Code \(IBC\)](#), homebuyers have been **granted certain rights and provisions**, primarily through amendments made to the code over the years. **Legal provisions for homebuyers under the IBC are:**
  - **Classification as Financial Creditors:** Through amendments, particularly the 2018 Amendment Act, homebuyers have been categorised as [Financial Creditors](#). This means that the **money advanced by a homebuyer to a real estate project is considered a financial debt**, granting them the **status of a creditor under the IBC.**
  - **Right to Initiate Insolvency Proceedings:** Homebuyers have the right to initiate insolvency proceedings against a **defaulting builder company under the IBC.**
    - However, the process involves certain conditions. As per the 2020 Amendment, homebuyers must **jointly file an application for initiation of corporate insolvency** with either at least 100 homebuyers or at least 10% of the homebuyers **in the same real estate project.**
  - **Position in Liquidation Stage:** In case the insolvency process fails and the company is pushed into liquidation, homebuyers are **treated as unsecured financial creditors.**
    - This places them in the **fourth position under the waterfall mechanism of Section 53 of the IBC.**
    - Homebuyers' claims are considered after the dues of insolvency process costs, secured creditors, workmen, and employees are satisfied.

## Why is the Government Reviewing RERA?

- **Assessment of Effectiveness:**

- The government wants to assess the effectiveness of RERA in achieving its objectives.
- This includes evaluating its **impact on transparency, accountability, information dissemination**, and grievance redressal in the real estate sector.
- By holding regular meetings with homebuyers and other stakeholders, the government aims to gather feedback on their experiences with RERA.
  - This feedback can help **identify any shortcomings or areas** for improvement in the implementation of the Act.
- **Data Collection:**
  - The Ministry is setting up a data collection unit to gather data on the functioning of the RERAs over the years.
  - This data would provide insights into the number of projects approved, their progress, delays, and other relevant information, **helping in assessing RERA's overall impact.**
- **Uniformity and Compliance:**
  - The government is focusing on ensuring uniformity in the information available on RERA websites across different states.
  - This indicates a push for greater compliance with the provisions of the Act, such as mandatory **publication of annual reports and quarterly progress reports of builders.**
    - During the meeting, the issue of lack of information on the RERA websites was raised which as per the Act should have annual reports and quarterly progress reports of builders.
    - It was also found that there were instances where RERAs had registered projects **without verification of documents.**
- **Possible Amendments:**
  - The government's review process lays the groundwork for any future changes.
  - This suggests a **proactive approach towards addressing any shortcomings** identified during the review process and improving the effectiveness of RERA.

**Drishti Mains Question:**

Q. Analyse the major provisions of RERA and assess its effectiveness in achieving transparency, accountability, and consumer protection in the real estate industry.

**UPSC Civil Services Examination, Previous Year Question (PYQ)**

**Mains**

Q. "The growth of cities as I.T. hubs has opened up new avenues of employment, but has also created new problems". Substantiate this statement with examples. **(2020)**

Q. Discuss the various social problems which originated out of the speedy process of urbanisation in India. **(2013)**