



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)**