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RERA



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Real Estate(Regulation and Development) Act, 2016

History

January-
2009-Proposal
for law on
real estate
sector

Model Real
Estate Law-
September-
2009

December-2011-
Draft Real Estate
Bill

June-2013-
Approval of Real
Estate Bill-2013 by
Union Cabinet

August-2013-
Real Estate Bill-
2013 introduced
in Rajya Sabha

History



September-2013-Real Estate Bill-2013 referred Standing Committee

February-2014-Report of Standing committee on Real Estate Bill-2013 in Rajya Sabha and Lok Sabha

February-2015-Validity of Central Law on Real Estate upheld by Attorney General

March-2015-amendment and Real Estate Bill-2013 referred to Select committee of Rajya Sabha

April-2015-Approval of amendment Real Estate Bill-2013 by Union Cabinet

History

July-2015
Select
committee of
Rajya Sabha
tabled report
and Real
Estate Bill
2015

Bill passed by
Rajya Sabha-10th
March-2016

Bill passed by Lok
SabhaR-15th March-
2016

Assent of President
on 25th March-2016

Real Estate
(Regulation and
Development) Act,
2016 published in
Gazette-26th
March-2016

History

Year 2009

MODEL REAL ESTATE LAW



Year 2011

REAL ESTATE (REGULATION AND DEVELOPMENET) Bill, 2011



Year 2013

REAL ESTATE (REGULATION AND DEVELOPMENET) Bill, 2013



Year 2015

REAL ESTATE (REGULATION AND DEVELOPMENET) Bill, 2015

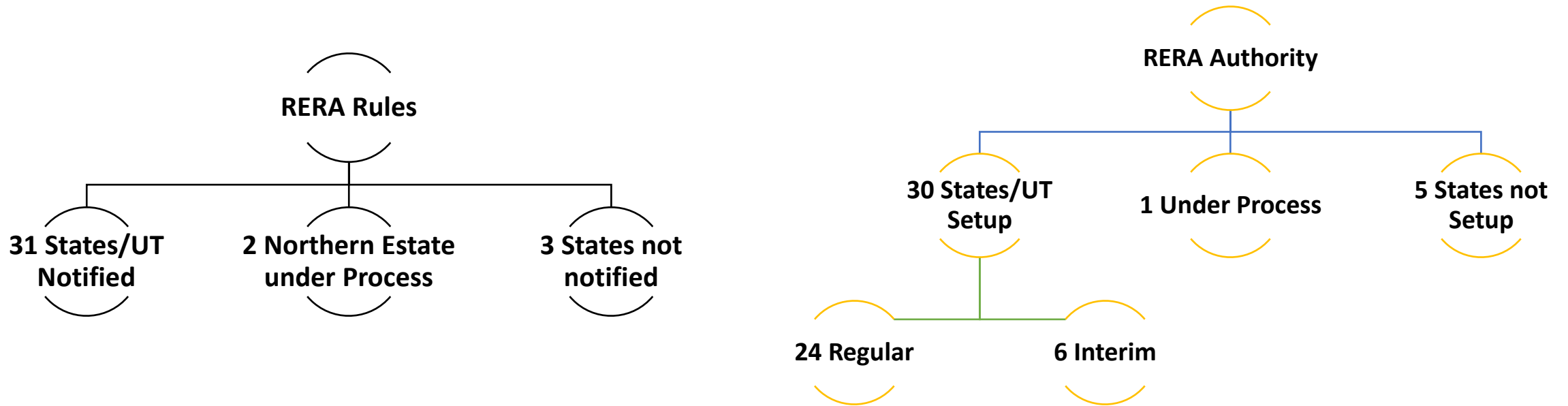


Year 2016

REAL ESTATE (REGULATION AND DEVELOPMENET), Act, 2016

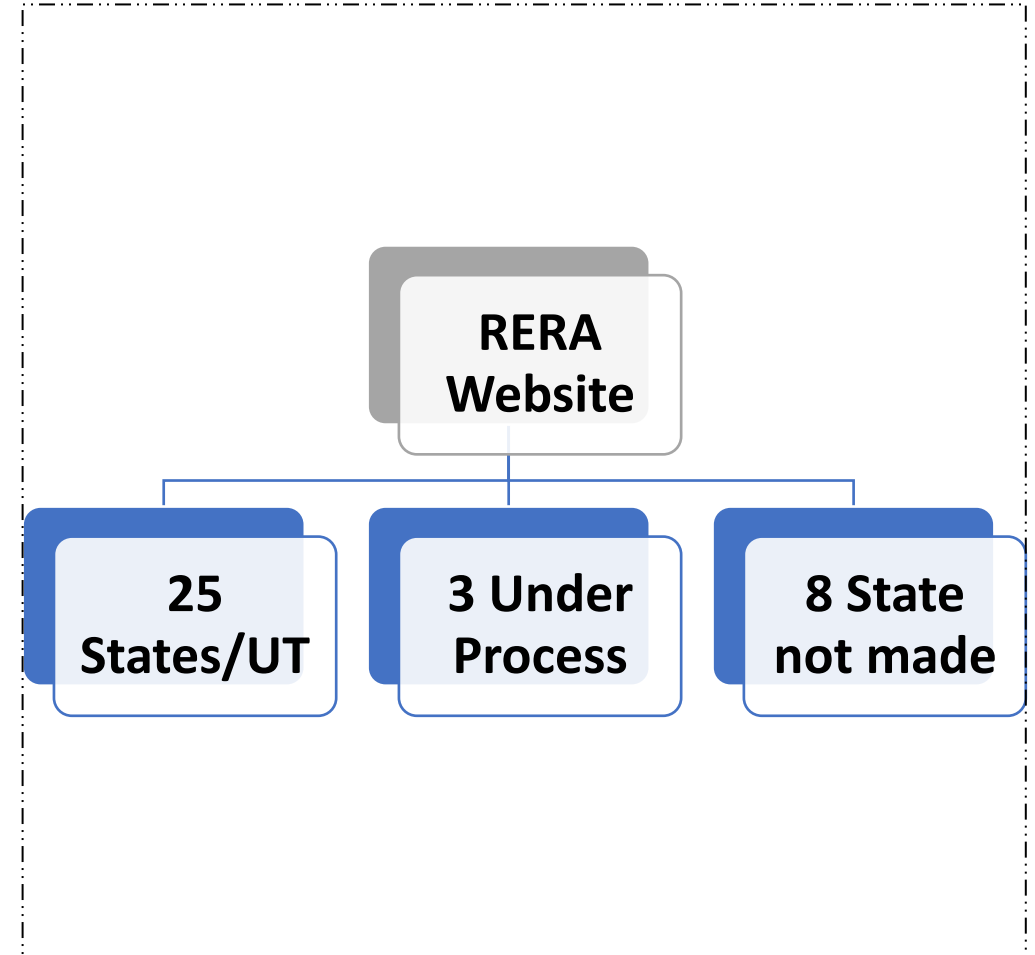
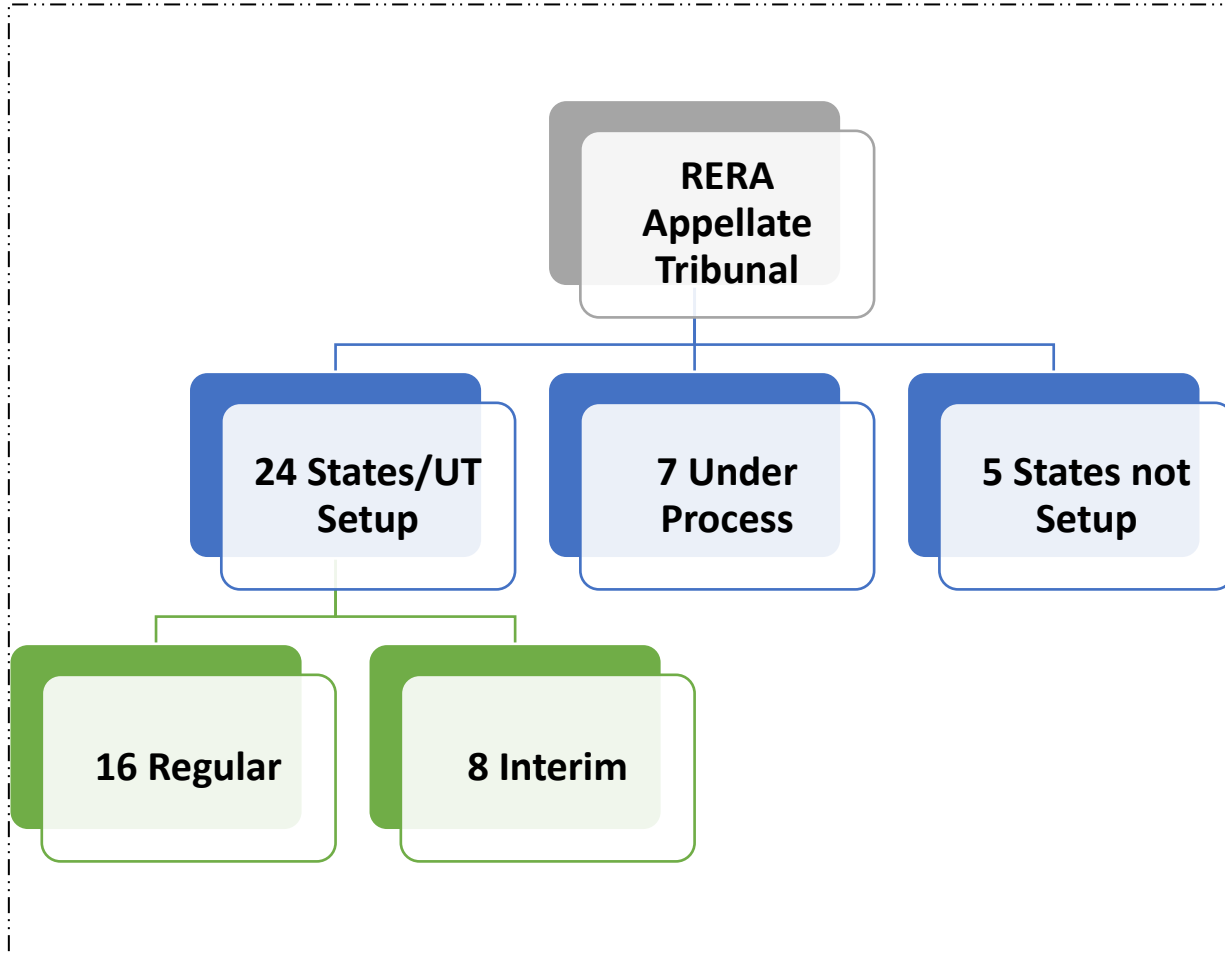
Implementation Status

RERA Current Status



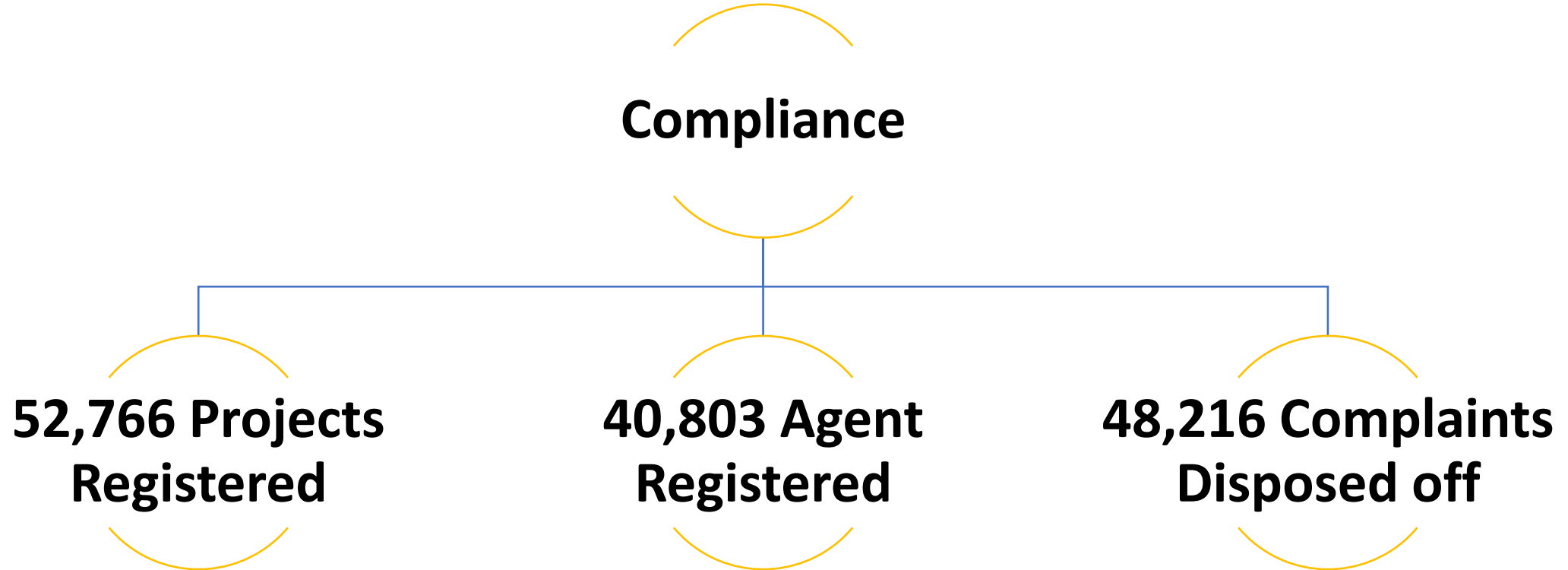
Implementation Status

RERA Current Status

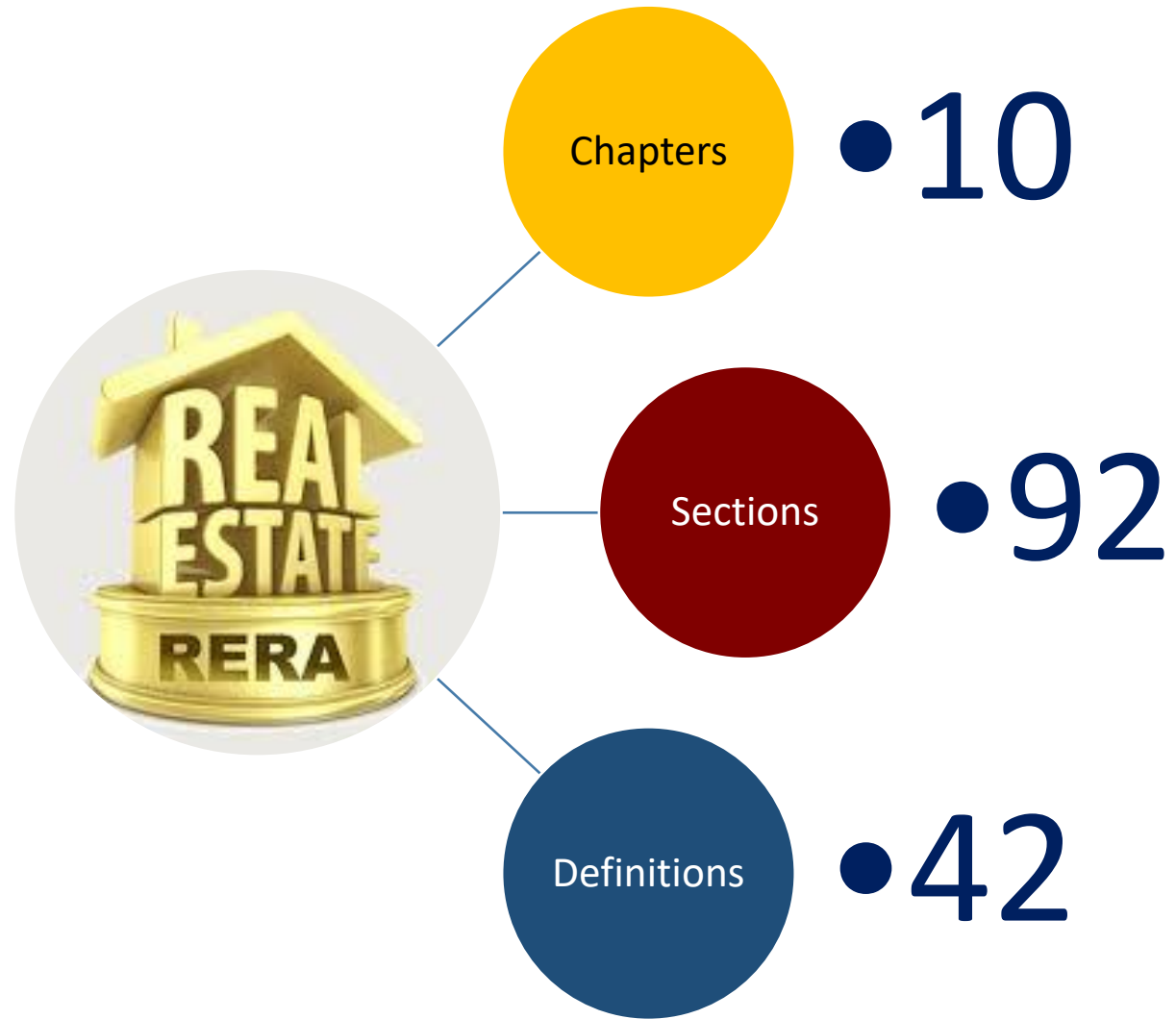


Implementation Status

RERA Current Status



History



Why RERA?

How the Real Estate Industry Operate?

Transparency ?

Diversion of Money?

Land Title?

Project/Construction with or without approval?

Collection of Money from Prospective Buyer?

Delay in Completion of Project?

Changes in Plan etc.?

Object of RERA



Object of RERA

An Act to establish the Real Estate Regulatory Authority **for regulation and promotion of the real estate sector** and to ensure sale of plot, apartment or building, as the case may be, or **sale of real estate project, in an efficient and transparent manner** and to **protect the interest of consumers** in the real estate sector and to **establish an adjudicating mechanism for speedy dispute redressal** and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto.

How to Understand RERA ?

Buckets of RERA----3 B's



Builder's



Buyer's



Broker

How to Understand RERA ?

Builder's

Registration

Compliance

Duties

Rights

Buyer's

Pre-Booking

Post-Booking

Possession

Broker

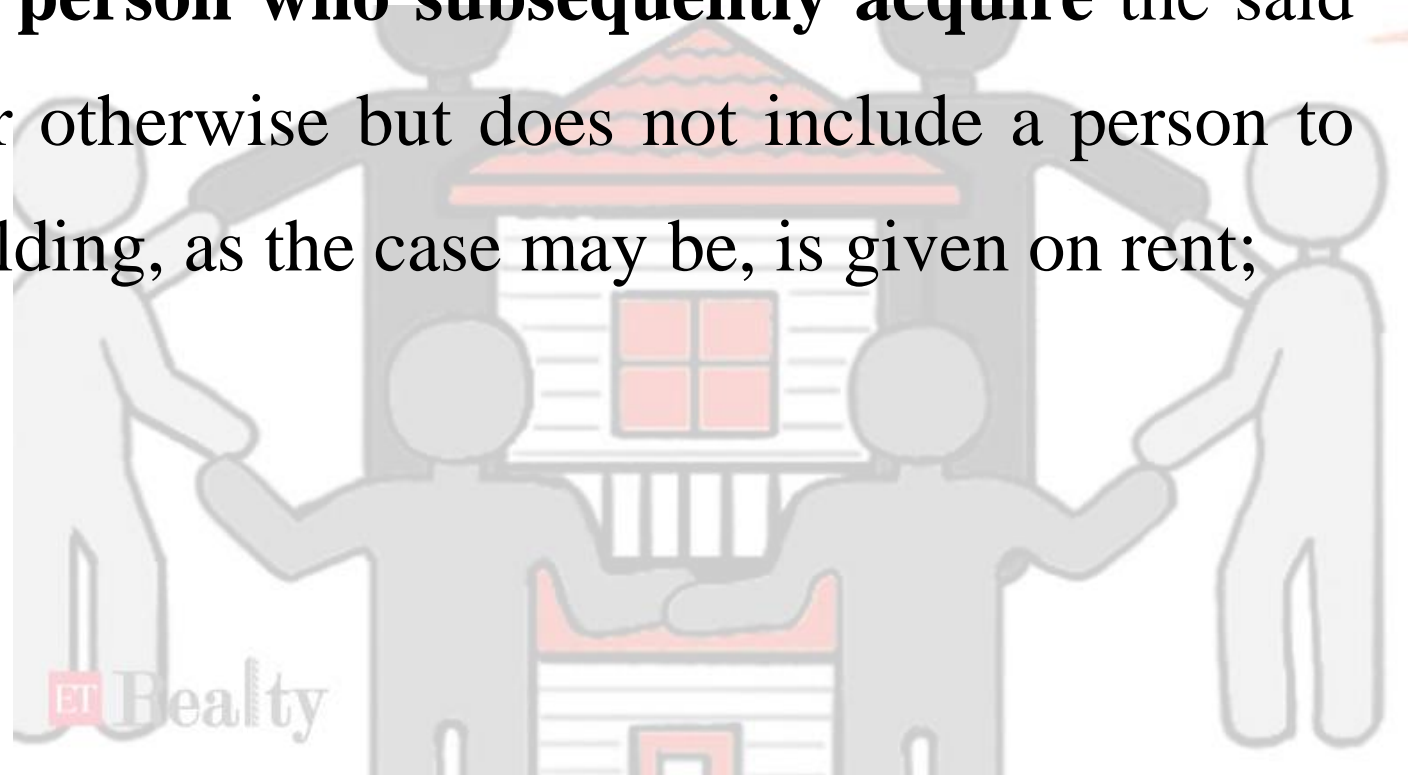
Registration

Duties

Important Definitions

As per section 2(d) “ allottee” in relation to a real estate project , means the person to whom a plot, apartment or building as the case may be , has been **allotted, sold (whether as freehold or leasehold) or otherwise transferred** by the promoter, and includes the **person who subsequently acquire** the said allotment through sale, transfer or otherwise but does not include a person to whom such plot , apartment or building, as the case may be, is given on rent;

SOLD



Important Definitions

1. First Buyers who directly buy the plot, apartment or building from promoter
2. Second buyer who buy the plot, apartment or building from first buyer

“Otherwise transferred”

Transaction where property is sold, transferred or gifted and would not include mortgages or lease

Is Lessee is comes under the definition of ‘allottee’

Lavasa Corporation Vs Jitendra Jagdish Tulsiani and ors Bombay High Court

Exclusion:-

Rent

Person who gets new flat (in replace of existing flat) under conversion of existing building

Important Definitions

As per section 2(e) “apartment ” whether called block, chamber, dwelling unit, **flat**, **office**, **showroom**, **shop**, **godown**, premises, suit, tenement, unit or by any other name, means **a separate and self-contained part of any immovable property**, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in a building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop, showroom or godown or for carrying on any business, occupation, profession or trade, or for any other type of use ancillary to the purpose specified;

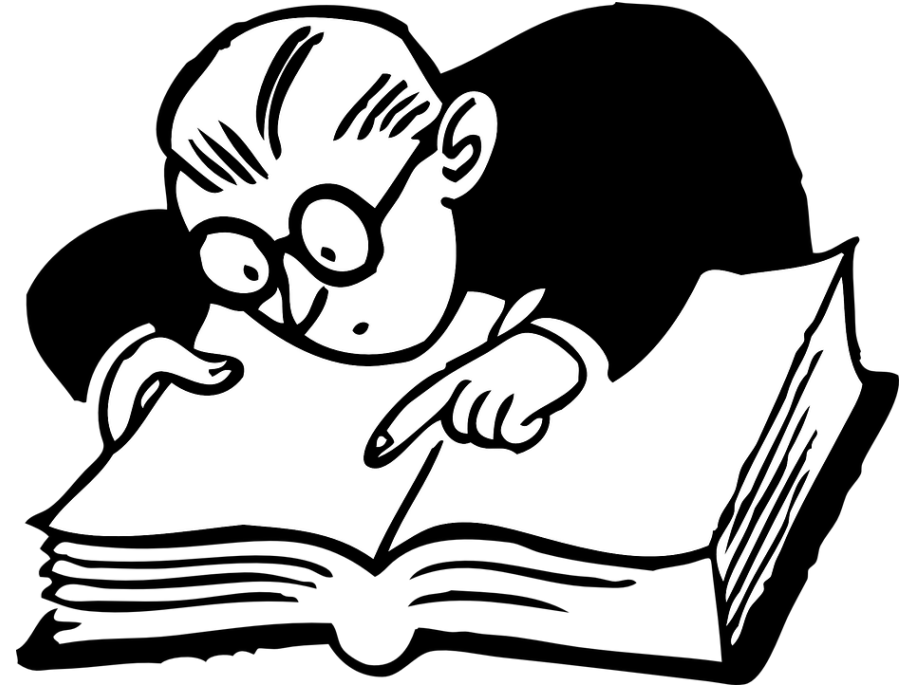
- No bifurcation between residential or commercial complex/unit
- All are covered under definition of apartment

Important Definitions

As per section 2(b) "advertisement" means any document described or issued as advertisement through any medium and includes any notice, circular or other documents or publicity in any form, informing persons about a real estate project, or offering for sale of a plot, building or apartment or inviting persons to purchase in any manner such plot, building or apartment or to make advances or deposits for such purposes;

SMS?

Email?



Important Definitions



As per section 2(n) “common areas ”

- (i)* the **entire land** for the real estate project or where the project is developed in phases and registration under this Act is sought for a phase, the entire land for that phase;

- (ii)* the **stair cases, lifts, staircase and lift lobbies, fire escapes, and common entrances and exits** of buildings;

- (iii)* the **common basements, terraces, parks, play areas, open parking areas** and common storage spaces;

- (iv)* the premises for the lodging of persons employed for the management of the property including **accommodation for watch and ward staffs** or for the lodging of community service personnel;

Important Definitions

As per section 2(n) “common areas ”

(v) installations of central services such as electricity, gas, water and sanitation, air-conditioning and incinerating, system for water conservation and renewable energy;

(vi) the water tanks, sumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use;

(vii) all community and commercial facilities as provided in the real estate project;

(viii) all other portion of the project necessary or convenient for its maintenance, safety, etc., and in common use;

Real Estate Project

Development of a building

Converting an existing building or a part thereof into apartments

Development of land into plots or apartment

Sales



Real Estate Project

Real Estate Project:

As per Section 2(zn) "real estate project" means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, **for the purpose of selling all or some of** the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto

Carpet Area

As per Section 2(zk) "carpet area" means the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment.

Explanation.— For the purpose of this clause, the expression "exclusive balcony or verandah area" means the area of the balcony or verandah, as the case may be, which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee; and "exclusive open terrace area" means the area of open terrace which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee;

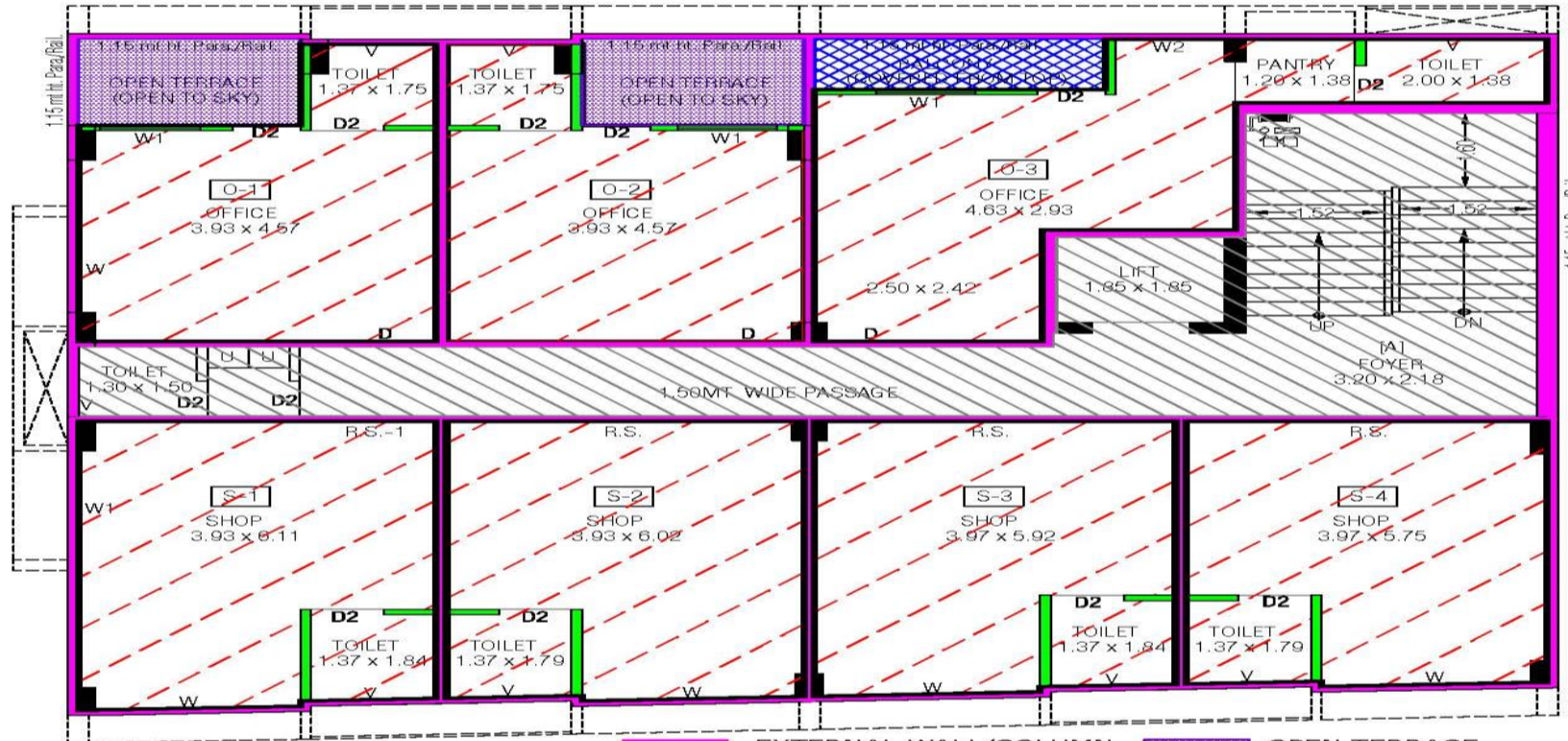
COMMERCIAL PROJECT.

DRG. COMM.-: 8/8 ALL LAYERS

CLARIFICATION ON CALCULATION OF CARPET AREA

DEFINITION AS PER RERA ACT CL. 2 (k) :-

"CARPET AREA" MEANS THE NET USABLE FLOOR AREA OF AN APARTMENT, EXCLUDING THE AREA COVERED BY THE EXTERNAL WALLS, AREAS UNDER SERVICES SHAFTS, EXCLUSIVE BALCONY OR VERANDAH AREA AND EXCLUSIVE OPEN TERRACE AREA, BUT INCLUDES THE AREA COVERED BY THE INTERNAL PARTITION WALLS OF THE APARTMENT.



FLOOR PLAN

- | | | | |
|--|------------------------|--|------------------|
| | EXTERNAL WALL/COLUMN | | OPEN TERRACE |
| | INTERNAL WALL/COLUMN | | BALCONY |
| | CARPET AREA UNDER RERA | | COMMON AREA |
| | | | CARPET AREA LINE |

Promoter

As per Section 2(zk) "Promoter" means

- (i) a person **who constructs or causes to be constructed** an independent building or a building consisting of apartments, **or converts an existing building or a part thereof** into apartments, **for the purpose of selling** all or some of the apartments to other persons and includes his assignees; or
- (ii) a person **who develops land into a project**, whether or not the person also constructs structures on any of the plots, **for the purpose of selling** to other persons all or some of the plots in the said project, whether with or without structures thereon; or
- (iii) Any development authority or any other public body in respect of allottees of
 - (a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or
 - (b) plots owned by such authority or body or placed at their disposal by the Government,for the purpose of selling all or some of the apartments or plots; or

Real Estate Agent

As per Section 2(zm) "real estate agent" means **any person**, who negotiates or acts on behalf of one person in a transaction of transfer of his plot, apartment or building, as the case may be, **in a real estate project**, by way of sale, with another person or transfer of plot, apartment or building, as the case may be, of any other person to him and **receives remuneration or fees or any other charges for his services** whether as commission or otherwise and includes a person who introduces, through any medium, prospective buyers and sellers to each other for negotiation for sale or purchase of plot, apartment or building, as the case may be, and includes property dealers, brokers, middlemen by whatever name called;

Section-3 Analysis

Is Project Registered
Section-3

Yes

No Restriction on Sales/Booking

No

No Sales/Booking

No Invitation to purchase

No Advertisement/Market

Applicability

Ongoing Project as on 1st
May, 2017

Completion Certificate
Received



Ongoing Project as on 1st
May, 2017

Completion Certificate
not Received



New Project Launched after 1st May,2017



Exception to Registration

Land area ≤ 500 Sq Mtrs.

Number of Units in the Project ≤ 8

Project not for Sale

Project under Redevelopment :No Marketing, Advertising selling or new allotment of any apartment



Analysis

Section-3(1) **No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase** in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, **in any planning area**, without registering the real estate project with the Real Estate Regulatory Authority established under this Act.

Provided that **projects that are ongoing** on the date of commencement of this Act **and for which the completion certificate has not been issued**, the promoter shall **make an application** to the Authority for registration of the said project **within a period of three months** from the date of commencement of this Act.

Provided further that if the Authority thinks necessary, in the interest of allottees, for **projects which are developed beyond the planning area** but with the requisite **permission of the local authority**, it may, by order, direct the promoter of such **project to register** with the Authority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.

Analysis

Section-3(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required—.

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:

Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;

(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;

(c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising, selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

Explanation.—For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a stand alone real estate project, and the promoter shall obtain registration under this Act for each phase separately.

Registration Application



Online

Promoter Registration

Project Registration

Key Information for Registration

- **Promoter Details-** Type, PAN, Address, Mobile no., Registration No. etc
- **Project details**
- **Project Agent details**
- **Project Architect Details**
- **Project Structural Engineer Details**
- **Project Contractor Details**

Registration Certificate
Architect/Engineer/CA Certificate
Financial Statements/ITR/Copy of PAN card
Encumbrance Certificate
Commencement Certificate
Plan copy
Land Documents
Title Report
Declaration by Promoter

Declaration/Undertaking

Ownership of
Land/Property?

Undertaking for Clear Title
of Property/Land- Section
4(2)(I)(A)

Bank Loan?

Undertaking that land is
free from encumbrances
Section 4(2)(I)(B)

Delay in Possession?

Undertaking for timely
Completion-
Section 4(2)(I)(C)

Declaration/Undertaking

Diversion of Money ?

Undertaking for Utilisation
of Money only for Project-
Section 4(2)(I)(D)

Approvals?

Undertaking to take
pending approvals
Section 4(2)(I)(E)

Financial Discipline and Role of CA

As per Section 4(2)(1)(d)

The promoter shall enclose a declaration that **“seventy per cent. of the amounts realised for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose”**

Provided that the promoter shall withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project:

Provided further that the amounts from the separate account shall be withdrawn by the promoter after it is **certified by an engineer, an architect and a chartered accountant in practice** that the withdrawal is in proportion to the percentage of completion of the project:

Financial Discipline and Role of CA

Provided also that the promoter shall get his accounts audited within six months after the end of every financial year by a chartered accountant in practice, and **shall produce a statement of account duly certified and signed by such chartered accountant** and it shall be verified during the audit that the amounts collected for a particular project have been utilised for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the projects.

Explanation.— For the purpose of this clause, the term "schedule bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934;

The word used is Separate account, not an escrow account as also clarified by the Honourable Union Minister for Urban Development while presenting the bill in Lok Sabha

Grant of Registration

Application for Registration



30 Days



Approval → **No** → Recording of Reason,
Opportunity of being heard



Yes



Registration Number



Login id and password



To access authority website



Grant of Registration

Application for Registration



30 Days Expire



No Approval/Rejection



Deemed Registration



7 Days



Registration Number



Login id and password



To access authority website



**NO RESPONSE
IS A RESPONSE.**

Extension of Registration

The registration granted under section 5 may be extended by the Authority **on an application made** by the promoter **due to *force majeure***, in such **form** and on payment of such **fee** as may be specified by regulations made by the Authority

Provided that the Authority may in reasonable circumstances, without default on the part of the promoter, based on the facts of each case, and for reasons to be recorded in writing, **extend the registration granted to a project** for such time as it considers necessary, which shall, in aggregate, **not exceed a period of one year:**

Provided further that no application for extension of registration shall be rejected unless the applicant has been given an **opportunity of being heard** in the matter.

Explanation.— For the purpose of this section, the expression "**force majeure**" shall mean a case of war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project.

Revocation of Registration

How Revocation ?



Suo Motu **or** on complaint **or** recommendation of competent authority



Why Revocation?



- **Non compliance of provisions** of the Act, Rules and Regulations.
- **Violation of terms and conditions of approval** given by authority.
- Involvement in **unfair practice and irregularities**.
- Indulges in any **fraudulent practices** .

Revocation of Registration

What is **unfair practice** ? : Unfair practice/method to promote the sale and development of real estate project

E.g.

- Making of statement- In writing or visible representation which
 - falsely represents that the services are of a particular standard or grade
 - represents that the promoter has approval or affiliation which such promoter does not have;
 - makes a false or misleading representation concerning the services
- Publication of advertisement or prospectus of services that are not intended to be offered

For revocation of registration 30 days notice is required to be serve

The Authority may, instead of revoking the registration under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose in the interest of the allottees, and any such terms and conditions so imposed shall be binding upon the promoter.

What is the effect of Revocation?

- Promoter will debar from accessing the its website
- Name and photo will display in defaulter list
- Information to other state Authority for such revocation
- Separate bank account opened for project will be freeze
- Development work will be carried out by the Association of allottee/Authority or other manner as decided by the authority

Does promoter has a right to appeal the order of revocation?

Yes

Direction, decision or order of the Authority under this section shall not take effect until the expiry of the period of appeal provided under the provisions of this Act

Registration of Agent



Application for Registration as per rules and regulations of State Authority

Single Registration by Authority for State/UT

No Response – Deemed registration

Registration number to be quoted in every sales facilitated by the Agent

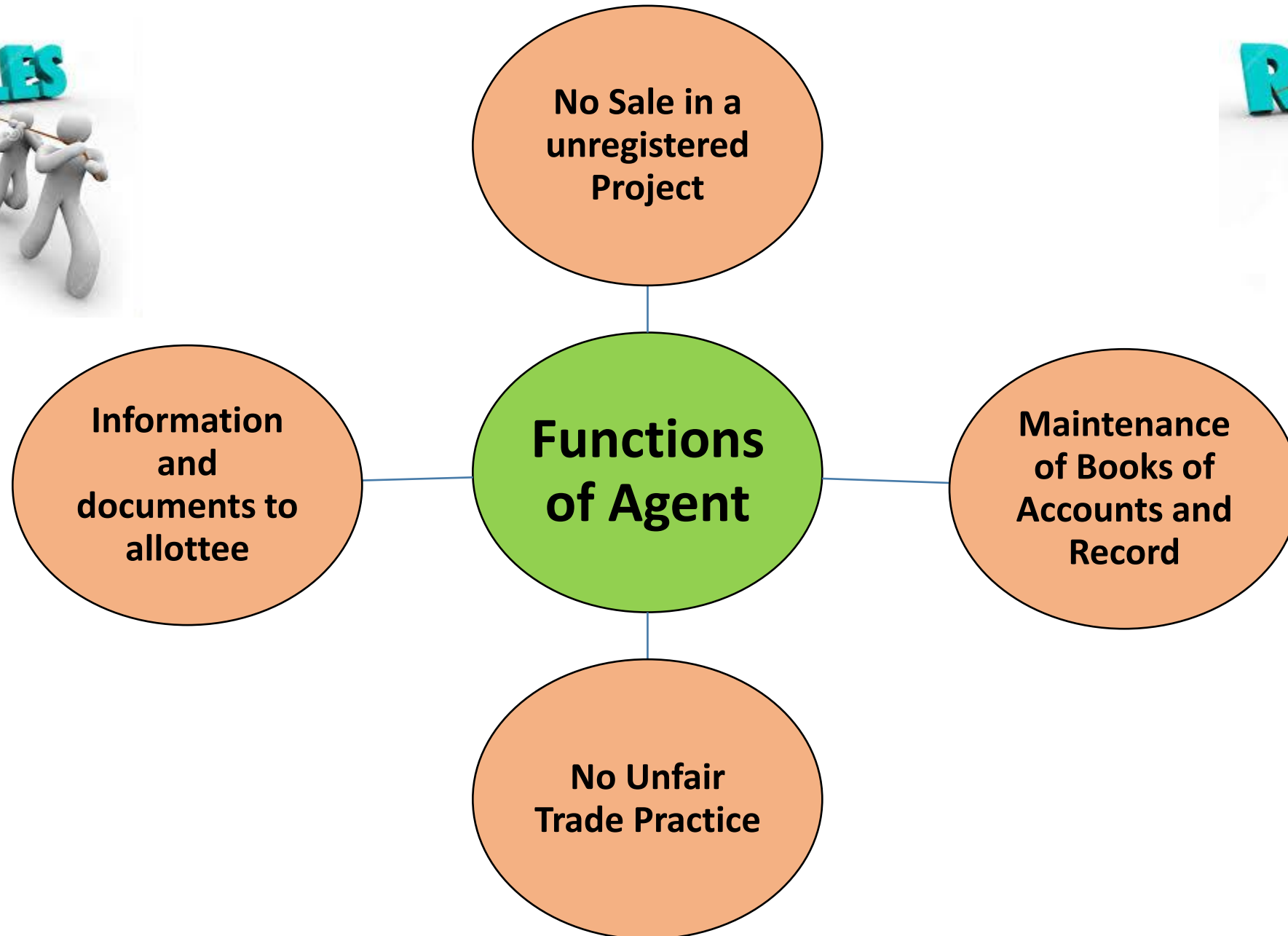
Validity of Registration as per State Rules and Renewable as per State Rules

Duties of Agent

ROLES



ROLES



Documentations

Brochure

- Disclaimer
- Riders

Advertsiement

- Incorrect
- False

Agreement to
Sale

- Binding
- ATS not converted to Sale deed

Sale Deed

- Specific Performance



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