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The Maharashtra Ownership Flats (Amendment and Validation) Act, 2025: Fixing the gap and streamlining real estate regulation in Maharashtra

The State of Maharashtra, on December 31, 2025, has enacted the Maharashtra Ownership Flats (Amendment and Validation) Act, 2025 ("**MOFA Amendment 2025**"), reflecting a recalibration of the regulatory framework governing housing projects. It aims to resolve overlaps between the Maharashtra Ownership of Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 ("**MOFA**") and the Real Estate (Regulation and Development) Act, 2016 ("**RERA**").

Background

Since the coming into force of RERA, developers and housing societies in Maharashtra have faced interpretational challenges arising from the concurrent applicability of MOFA and RERA. While RERA introduced a comprehensive framework governing project registration, disclosures, timelines and handover obligations, MOFA continued to apply to aspects such as conveyance of title and penal consequences for non-compliance. The courts solved this problem with harmonious interpretation of the 2 (two) statutes. The Bombay High Court stated that the language of Section 17 of RERA supports application of MOFA as it is a local law, especially with regards to the conveyance of the property.¹

Key Provisions of the MOFA Amendment 2025

Limited Applicability of MOFA to RERA Projects

Section 1A of the MOFA Amendment 2025 explicitly excludes applicability of most of the MOFA provisions to RERA registered projects, preserving just Sections 5A, 11A, 13B, 13C, 13D of MOFA and other provisions relating to the competent authority. In other words, only these provisions of the MOFA will apply to RERA registered projects.

Since 2016, RERA registered projects existed in regulatory limbo, technically subject to both MOFA and RERA creating confusion, overlapping compliance burdens, and contradictory obligations. The new Section 1A of the MOFA Amendment 2025 puts this to rest.

Unilateral deemed conveyance (New Section 11A)

If the promoter of a RERA-registered project fails to execute a conveyance deed as per Section 17 of RERA, the allottees (or association of allottees) can now apply for a unilateral deemed conveyance directly to the competent authority (i.e.

¹ *Flagship Infrastructure Limited vs. Registrar of Cooperative Societies*, 2025 SCC OnLine Bom 1240

District Deputy Registrar of cooperative societies) under the procedure specified in sub-section (3) of section 11 of MOFA.

This closes a critical protection gap that existed since 2016 when RERA came into force but lacked deemed conveyance provisions.

Retrospective effect

The MOFA Amendment 2025 comes with retrospective effect from May 1, 2016, thereby validating all prior actions, deemed conveyances, and competent authority orders issued under the old regime.

Conclusion

The MOFA Amendment 2025 brings long-awaited regulatory clarity to Maharashtra's real estate ecosystem by conclusively demarcating the spheres of MOFA and RERA. For homebuyers and housing societies, the extension of unilateral deemed conveyance to RERA-registered projects substantially strengthens title security and addresses a long-standing enforcement vacuum under Section 17 of RERA.

For promoters of RERA, registered projects, the amendment reduces compliance uncertainty and the risk of parallel proceedings by eliminating the overlap of MOFA's criminal and penal provisions in RERA projects, while still preserving accountability through the Maharashtra Real Estate Regulatory Authority's ("**MAHA-RERA**") regulatory and monetary enforcement framework.

MOFA's broader regulatory and penal provisions like Section 13, which prescribes criminal liability for promoters including imprisonment will no longer apply to RERA registered projects. Such matters will now have to be dealt exclusively under RERA through financial penalties, interest, compensation, and enforceable directions issued by MAHA-RERA or the Maharashtra Real Estate Appellate Tribunal.

This change signals a broader policy shift away from criminalisation towards regulatory compliance. RERA's framework emphasises monetary penalties, project-specific directions and ongoing regulatory supervision, which the legislature appears to regard as more proportionate and effective in the real estate context.

Real Estate Practice

JSA is widely recognised as having one of the premier Real Estate Practices in India, and it is one of the most sophisticated and highly diversified commercial Real Estate practices, led by knowledgeable and experienced Real Estate experts at each of our offices in Gurugram, New Delhi, Mumbai, Bangalore, Hyderabad and Chennai. Our clients use our services for some very challenging and complex Real Estate transactions, which require thoughtful and practical advice.

Our clients comprise a broad cross-section of Indian and international, institutional and private entities, including developers, real estate advisers, banks, real estate funds, high net worth investors, governments, major retailers, hotel owners and operators, and others.

We are primarily involved in legal and regulatory issues for various types of real estate projects, including in relation to the construction and development of hotels, malls, residential and commercial complexes, warehouses, IT and industrial parks, and Special Economic Zones.

We have been involved in conducting legal due diligence in relation to such projects and have drafted and reviewed various types of documents, including transaction documents such as (a) shareholders', subscription and share purchase agreements; (b) development agreements; and (c) joint venture agreements and other related documents and agreements.

During the course of our practice, we have also been involved in the drafting and reviewing of (a) agreements for sale; (b) conveyance deeds; and (c) lease deeds.

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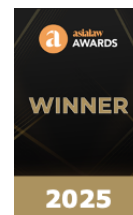
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