

# The Maharashtra Apartment Ownership Act, 1970

MAHARASHTRA

India

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### Act 15 of 1971

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The Maharashtra Apartment Ownership Act, 1970 Maharashtra Act No. 15 of 1971 For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1970, Part 5, Extra, page 343-344. [Received the assent of the President on the 12th day of February, 1971; assent was first published in the Maharashtra Government Gazette, on the 19th February, 1971.] An Act to provide for the ownership of an individual apartment in a building and to make such apartment heritable and transferable property Whereas, it is expedient to provide for the ownership of an individual apartment in a building and to make such apartment heritable and transferable property, and to provide for matters connected with the purposes aforesaid; It is hereby enacted in the Twenty-first Year of the Republic of India as follows:-

### 1. Short title, extent and commencement.

(1) This Act may be called the Maharashtra Apartment Ownership Act, 1970. (2) It extends to the whole of the State of Maharashtra. (3) This section shall come into force at once; and the remaining provisions of this Act shall come into force in such areas, and on such [dates] [10th day of August 1972 in the areas of (1) Municipal Corporation of Greater Bombay, (2) New Bombay, (3) Municipal Corporation of the City of Pune, (4) Corporation of the City of Nagpur, (5) Municipal Corporation of the City of Solapur, and (6) Municipal Councils of Akoia, Amravati, Aurangabad, Jalna, Beed, Dhule, Jalgaon, Ichalkaranji, Kolhapur, Nanded, Malegaon, Nashik, Latur, Osmanabad, Udgir, Basmatnagar, Parbhani, Pimpri-Chinchwad, Islampur, Ambernath, Dombivli, Thane, Hinganghat and Pulgaon. (Vide G.N., U.D., P.H. & H.D., No. FOB. 1071/26752-J, dated the 10th August, 1972).] as the State Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different areas.

### 2. Application of Act.

- This Act applies only to property, the sole owner or all of the owners of which submit the same to the provisions of this Act by duly executing and registering a Declaration as hereinafter

provided: Provided that, no property shall be submitted to the provisions of this Act, [unless used or proposed to be used for residence, office, practice of any profession or carrying on any occupation, trade or business or for any other type of independent use:] [These words were substituted for the words 'unless it is mainly used, or proposed to be used for residential purposes' by Maharashtra 53 of 1974, Section 2.] [Provided further that the sole owner or all the owners of the land may submit such land to the provisions of this Act with a condition that he or they shall grant a lease of such land to the apartment owners, terms and conditions of the lease being disclosed in the Declaration either by annexing a copy of the instrument of lease to be executed to the Declaration or otherwise.] [This proviso was deemed always to have been added by Maharashtra 6 of 1974, Section 2.]

### 3. Definitions.

- In this Act, unless the context otherwise requires, - (a) "apartment" means a part of the property intended for any type of independent use, including one or more rooms or enclosed spaces located on one or more floors or part or parts thereof in a building, [intended to be used for residence, office, practice of any profession, or for carrying on any occupation, trade or business or for any other type of independent use] [These words were substituted for the words 'intended to be used for residential purposes' by Maharashtra 53 of 1974, Section 3(1).] 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) "apartment owner" means the person or persons owning an apartment and an undivided interest in the common areas and facilities in the percentage specified and established in the Declaration; (c) "apartment number" means the number, letter, or combination thereof designating the apartment in the Declaration; (d) "Association of Apartment Owners" means all of the apartment owners acting as a group in accordance with the bye-laws and Declaration; (e) "building" means a building containing five or more apartments, or two or more buildings, each containing two or more apartments, with a total of five or more apartments for all such buildings, and comprising a part of the property; (f) "common areas and facilities", unless otherwise provided in the Declaration or lawful amendments thereto, means - (1) the land on which the building is located; (2) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stair-ways, fire-escapes and entrances and exits of the buildings; (3) the basements, cellars, yards, gardens, parking areas and storage spaces; (4) the premises for the lodging of janitors or persons employed for the management of the property; (5) installations of central services, such as power, light, gas, hot and cold water, heating, refrigeration, air-conditioning and incinerating; (6) the elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use; (7) such community and commercial facilities as may be provided in the Declaration; and (8) all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use; (g) "common expenses" means, - (1) all sums lawfully assessed against the apartment owners by the Association of Apartments Owners; (2) expenses of administration, maintenance, repair or replacement of the common areas and facilities; (3) expenses agreed upon as common expenses by the Association of Apartment Owners; (4) expenses declared as common expenses by the provisions of this Act, or by the Declaration or the bye-laws; (h) "common profits" means the balance of all income, rents, profits and revenues from the common areas and facilities remaining after the deduction of the common expenses; (i) [ "Competent authority", - [Clause (i) was substituted for the original by Maharashtra 14 of 1986, Section 2(a).] (1) in relation to

buildings constructed or to be constructed by the Housing and Area Development Authority established under section 3, or a Housing and Area Development Board established under section 18 of the Maharashtra Housing and Area Development Act, 1976, or by a company, means the Deputy Chief Engineer or the officer referred to in sub-section (2) of section 7 of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963; and (2) in any other case, means the Registrar of Co-operative Societies as defined in the Maharashtra Co-operative Societies Act, 1960; (j) "Declaration" means the instrument by which the property is submitted to the provisions of this Act, [as provided by section 2] [These words and figure were substituted for the words 'as hereinafter provided' by Maharashtra 53 of 1974, Section 3(2).], and such Declaration as from time to time may be lawfully amended. (k) [ \* \* \* \* \* ] [Clauses (k) and (l) were deleted, by Maharashtra 14 of 1986, Section 2(b).] (l) [ \* \* \* \* \* ] [Clauses (k) and (l) were deleted, by Maharashtra 14 of 1986, Section 2(b).] (m) "joint family" means an undivided Hindu family, and in the case of other persons, a group or unit, the members of which are by custom joint in possession or residence; (n) "limited common areas and facilities" means those common areas and facilities designated in the Declaration as reserved for use of certain apartment or apartments to the exclusion of the other apartments; (o) "majority" or "majority of apartment owners" means the apartment owners with 51 per cent, or more of the votes in accordance with the percentages assigned in the Declaration to the apartments for voting purposes; (p) "person" includes a joint family; (q) "prescribed" means prescribed by rules made under this Act; (r) "property" means the land, the building, all improvements and structures thereon, [ \* \* \* ] [The words 'all owned in freehold or held on lease or as occupant under any law relating to land revenue' were deemed always to have been deleted by Maharashtra 6 of 1974, Section 3.] and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been, or are intended to be, submitted to the provisions of this Act.

#### 4. Status of apartments.

- [Subject to the provisions of the second proviso to section 2 of this Act, each apartment] [These words and figure were deemed always to have been substituted for the words 'Each apartment' by Maharashtra 6 of 1974, Section 4.], together with its undivided interest in the common areas and facilities, appurtenant to such apartment, shall for all purposes constitute heritable and transferable immoveable property within the meaning of any law for the time being in force in the State; and accordingly, an apartment owner may transfer his apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment by way of sale, mortgage, lease, gift, exchange or in any other manner whatsoever in the same manner, to the same extent and subject to the same rights, privileges, obligations, liabilities, investigations, legal proceedings, remedies and to penalty, forfeiture and punishment as any other immoveable property, or make a bequest of the same under the laws applicable to the transfer and succession of immoveable property.

## **5. Ownership of apartments.**

(1) Each apartment owner shall be entitled to the exclusive ownership and possession of his apartment [in accordance with the Declaration executed and registered as required by section 2 of this Act.] [These words were deemed always to have been added by Maharashtra 6 of 1974, Section 5.] (2) Each apartment owner [shall execute a Deed of Apartment] [These words were substituted for the words 'shall execute a Declaration that he submits his apartment to the provisions of this Act and a Deed of Apartment,' by Maharashtra 53 of 1974, Section 4.] in relation to his apartment in the manner prescribed for the purpose.

## **6. Common areas and facilities.**

(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 a basis the value of the apartment in relation to the value of the property; and such percentage shall reflect the limited common areas 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 have a permanent character, and shall not be altered without the consent of all of the apartment owners expressed in an amended Declaration duly executed and registered as provided in Act. The percentage of the undivided 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 removed from the provisions of this Act as provided in sections 14 and 22. Any covenant to the contrary shall be null and void. (4) Each apartment owner may use the common areas and facilities in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other apartment owners. (5) The necessary work of maintenance, repair and replacement of the common areas and facilities and the making of any additions or improvements thereto shall be carried out only as provided herein and in the bye-laws. (6) The Association of Apartment Owners shall have the irrevocable right, to be exercised by the Manager or Board of Managers, to have access to each apartment from time to time during reasonable hours as may be necessary for the maintenance, repairs and replacement of any of the common areas and facilities therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common areas and facilities or to another apartment or apartments.

## **7. Compliance with covenants bye-laws and administrative provisions.**

- Each apartment owner shall comply strictly with the bye-laws and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in the Declaration or in the Deed to his apartment. Failure to comply with any of the same shall be a ground for an action to recover sums due, for damages or injunctive relief or both maintainable by the Manager or Board of

Managers on behalf of the Association of Apartment Owners, or, in a proper case, by an aggrieved apartment owner.

## **8. Certain work prohibited.**

- No apartment owner shall do any work which would jeopardize the soundness or safety of the property, reduce the value thereof or impair any easement or hereditament nor may any apartment owner add any material structure or excavate any additional basement or cellar without in every such case the unanimous consent of all the other apartment owners being-first obtained.

## **9. Encumbrances against apartments; removal from encumbrances; effect of part payment.**

(1) Subsequent to recording the Declaration as provided in this Act, and while the property remains subject to this Act, no encumbrance of any nature shall thereafter arise or be effective against the property. During such period encumbrances may arise or be created only against each apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment, in the same manner and under the same conditions in every respect as encumbrances may arise or be created upon or against any other separate parcel of property subject to individual ownership: Provided that, if during the period any encumbrance has arisen or been created against such apartment and the percentage of undivided interest in the common areas and facilities, appurtenant to such apartment, no apartment and such percentage of undivided interest shall be partitioned or sub-divided in interest: Provided further that, no labour performed or material furnished with the consent or at the request of an apartment owner or his agent or his contractor or subcontractor shall be the basis for a charge or any encumbrance under the provisions of the Transfer of Property Act, 1882, against the apartment of any other property of any other apartment owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any apartment in the case of emergency repairs thereto. Labour performed and material furnished for the common areas and facilities if duly authorised by the Association of Apartment Owners, the Manager or Board of Managers in accordance with this Act. The Declaration or bye-laws shall be deemed to be performed or furnished with the express consent of each apartment owner and shall be the basis for a charge or encumbrance under the Act aforesaid against each of the apartments and shall be subject to provisions of subsection (2) of this section. (2) In the event of a charge or any encumbrance against two or more apartments becoming effective, the apartment owners of the separate apartments may remove their apartments and the percentage of undivided interest in the common areas and facilities appurtenant to such apartments from the charge or encumbrance by payment of the fractional or proportional amounts attributable to each of the apartments affected. Such individual payment shall be computed by reference to the percentages appearing in the Declaration. Subsequent to any such payment, discharge or other satisfaction, the apartment and the percentage of undivided interest in the common areas and facilities appurtenant thereto shall thereafter be free and clear of the charge or encumbrance so paid, satisfied or discharged. Such partial payment, satisfaction or discharge shall not prevent the person having a charge or any other encumbrance from proceeding to enforce his rights against any apartment and the percentage of undivided interest in the common areas and facilities appurtenant

thereto not so paid, satisfied or discharged.

## **10. Common profits and expenses.**

- The common profits of the property shall be distributed among, and the common expenses shall be charged to, the apartment owners according to the percentage of the undivided interest in the common areas and facilities.

## **11. Contents of Declaration.**

(1)The Declaration shall contain the following particulars, namely:-(a)Description of the land on which the building and improvements are or are to be located; and whether the land is freehold or leasehold [and whether any lease of the land is to be granted in accordance with the second proviso to section 2 of this Act] [These words were deemed always to have been added by Maharashtra 6 of 1974, Section 6.];(b)Description of the building stating the number of storeys and basements, the number of apartments and the principal materials of which it is or is to be constructed;(c)The apartment number of each apartment, and a statement of its location, approximate area, number of rooms, and immediate common area to which it has access, and any other data necessary for its proper identification;(d)Description of the common areas and facilities;(e)Description of the limited common areas and facilities, if any, stating which apartments their use is reserved;(f)Value of the property and of each apartment, and the percentage of undivided interest in the common areas and facilities, appertaining to each apartment and its owner for all purposes, including voting; and a statement that the apartment and such percentage of undivided interest are not encumbered in any manner whatsoever on the date of the Declaration;(g)Statement of the purposes for which the building and each of the apartments are intended and restricted as to use;(h)The name of a person to receive service of process in the cases hereinafter provided, together with the residence or place of business of such person which shall be within the city, town or village in which the building is located;(i)Provision as to the percentage of votes by the apartment owners which shall be determinative of whether to rebuild, repair, restore, or sell the property in the event of damage or destruction of all or part of the property;(j)Any other details in connection with the property which the person executing the Declaration may seem desirable to set forth consistent with this Act;(k)The method by which the Declaration may be amended, consistent with the provisions of this Act.(2)A true copy of each of the Declaration and bye-laws and all amendments to the Declaration or the bye-laws shall be filed in the office of the competent authority.

## **12. Contents of Deeds of Apartments.**

(1)Deeds of Apartments shall include the following particulars, namely:-(a)Description of the land as provided in section 11 of this Act or the post-office address of the property, including in either case the liber, page and date of executing the Declaration, the date and serial number of its registration under the [Registration Act, 1908] [These words and figures were substituted for the words and figures 'Indian Registration Act, 1908' by Maharashtra 14 of 1986, Section 3.], and the date and other reference, if any, of its filing with the competent authority.(b)The apartment number of the apartment in the Declaration and any other data necessary for its proper

identification.(c)Statement of the use for which the apartment is intended and restrictions on its use, if any.(d)The percentage of undivided interest appertaining to the apartment in the common areas and facilities.(e)Any further details which the parties to the Deed may deem desirable to set forth consistent with the Declaration and this Act.(2)A true copy of every Deed of Apartment shall be filed in the office of the competent authority.

### **13. Declarations, Deeds of Apartments and copies of floor plans to be registered.**

(1)The Declaration and all amendments thereto and the Deed of Apartment in respect of each apartment and the floor plans of the buildings referred to in subsection (2) shall all be registered under the [Registration Act, 1908] [These words and figures were substituted for the words and figures 'Indian Registration Act, 1908', by Maharashtra 14 of 1986, Section 4.].(2)Simultaneously with the registration of the Declaration there shall be filed alongwith it a set of the floor plans of the building showing the layout, location, apartment numbers and dimensions of the apartments stating the name of the building or that it has no name, and bearing the verified statement of an architect certifying that it is an accurate copy of portions of the plans of the building as filed with and approved by the local authority within whose jurisdiction the building is located. If such plans do not include a verified statement by such architect that such plans fully and accurately depict the layout, location, apartment numbers and dimensions of the apartments as built, there shall be recorded prior to the first conveyance of any apartment, an amendment to the Declaration to which shall be attached a verified statement of an architect certifying that the plans theretofore filed, or being filed simultaneously with such amendment, fully and accurately depict the layout, location, apartment number and dimensions of the apartment as built.(3)In all registration offices a book called "Register of Declarations and Deeds of Apartments under the Maharashtra Apartment Ownership Act, 1970" and Index relating thereto shall be kept. The book and the Index shall be kept in such form and shall contain such particulars as the State Government may prescribe.(4)It shall be the duty of every Manager or Board of Managers to send to the Sub-Registrar of the Sub-district in which the property containing the apartments situate, or if there is no Sub-Registrar for the area, to the Registrar of the district in which such property is situate a certified copy of the Declaration and Deed of Apartment made in respect of every apartment contained in the building forming part of the property together with a memorandum containing such particulars as the State Government may prescribe.(5)The Sub-Registrar, or as the case may be, the Registrar shall register the Declaration alongwith floor plans of the building and the Deed of Apartment in the Register of Declarations and Deeds of Apartments under the Maharashtra Apartment Ownership Act, 1970 and shall also enter particulars in the Index kept under subsection (3). Any person acquiring any apartment of any apartment owner shall be deemed to have notice of the Declaration and of the Deed of Apartment as from the date of its registration under this section.(6)Except as provided in this section, the provisions of the [Registration Act, 1908] [These words and figures were substituted for the words and figures 'Indian Registration Act, 1908', by Maharashtra 14 of 1986, Section 4.], shall mutatis mutandis apply to the registration of such Declarations and Deeds of Apartments and the words and expressions used in this section but not defined in this Act, shall have the meanings assigned to them in the [Registration Act, 1908] [These words and figures were substituted for the words and figures 'Indian Registration Act, 1908', by Maharashtra 14 of 1986, Section 4.].

## **14. Removal from provisions of Act.**

(1) All the apartment owners may remove a property from the provisions of this Act, by an Instrument to that effect duly executed: Provided that, the holders of all charges and other encumbrances affecting any of the apartments consent thereto or agree, in either case by instruments duly executed that their charges or encumbrances be transferred to the percentage of the undivided interest of the apartment owner in the property as hereinafter provided. (2) Upon removal of the property from the provisions of this Act, the p shall be deemed to be owned in common by the apartment owner. The undivided interest in the property owned in common which shall appertain to each apartment owner shall be the percentage of undivided interest previously owned by such owner w the common areas and facilities.

## **15. Removal on bar to subsequent resubmission of property to Act.**

- The removal provided for in the preceding section shall in no way bar the subsequent resubmission of the property to the provisions of this Act.

## **16. Bye-laws, their contents.**

(1) The administration of every property shall be governed by bye-laws a true copy of which shall be annexed to the Declaration. No modification of or amendment to the bye-laws shall be valid, unless set forth in an amendment to the Declaration, and such amendment is duly recorded, and a copy thereof is duly filed with the competent authority. (2) The bye-laws shall provide for the following matters, namely:-(a) The election from among the apartment owners of a Board of Managers, the number of persons constituting the same, and that the terms of at least one-third of the members of such Board shall expire annually; the powers and duties of the Board; the compensation, if any, of the members of the Board; the method of removal from office of members of the Board; and whether or not the Board may engage the services of a Secretary, a Manager or Managing Agent, and specifying which of the powers and duties granted to the Board by this Act or otherwise may be delegated by the Board to either or both of them; (b) Method of calling meetings of the apartment owners; what percentage, of other than a majority of apartment owners, shall constitute a quorum; (c) Election of a President from among the members of the Board of Managers who shall preside over the meetings of such Board and of the Association of Apartment Owners; (d) Election of a Secretary who shall keep a minute book wherein resolutions shall be recorded; (e) Election of a Treasurer who shall keep the financial records and books of accounts; (f) Maintenance, repair and replacement of the common areas and facilities and payments therefor; (g) Manner of collecting from the apartment owners their share of the common expenses; (h) Designation and removal of persons employed for the maintenance, repair and replacement of the common areas and facilities; (i) The method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common areas and facilities; (j) Such restrictions on the requirements respecting the use and maintenance of the apartments and the use of the common areas and facilities not set forth in the Declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common areas and facilities by the several apartment owners; (k) The percentage of the votes required to amend the bye-laws. (3) The bye-laws



may also provide for the following matters, namely:-(a)Subject to the provisions of this Act, provision for regulating, transfer or partition of any apartment and percentage of undivided interest in the common areas and facilities appurtenant to such apartment, subject to such terms and conditions as may be specified in the bye-laws.(b)Provisions enabling the Board of Managers to retain certain areas of the building and lease to non-residents for commercial purposes and for distribution of resulting proceeds to the apartment owners as income or application thereof in reduction of their common charges for maintaining the building;(c)Any other provisions not inconsistent with the provisions of this Act relating to the audit and accounts and administration of the property and annual and special general meetings, annual report and the like.

### **17. Waiver of use of common areas and facilities; abandonment of apartment.**

- No apartment owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use of enjoyment of any of the common areas and facilities, or by abandonment of his apartment.

### **18. Separate assessment.**

- Notwithstanding anything to the contrary contained in any law relating to local authorities, each apartment and its percentage of undivided interest in the common areas and facilities appurtenant to such apartment (being an apartment submitted to the provisions of this Act) shall be deemed to be separate property for the purpose of assessment to tax on lands and buildings leviable under such law and shall be assessed and taxed accordingly; and for this purpose, a local authority shall make all suitable rules to carry out the provisions of this section. Neither the building, the property nor any of the common areas and facilities shall be deemed to be separate property for the purposes of the levy of such tax.

### **19. Charge for property of common expenses.**

- All sums assessed by the Association of Apartment Owners but unpaid for the share of the common expenses chargeable to any apartment shall constitute a charge on such apartment prior to all other charges except, only (i) charge, if any, on the apartment for payment of Government and municipal taxes, and (ii) all sums unpaid on a first mortgage of the apartment.

### **20. Joint and several liability of vendor, etc., for unpaid common expenses.**

- 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 upto the time of the sale without prejudice to the purchaser's or grantee's right to recover from the vendor the amount paid by the purchaser or grantee therefor. Any such purchaser shall be entitled to a statement from the Secretary of Board of Managers setting forth the amount of the unpaid assessment against the vendor and such purchaser or grantee shall not be liable for, nor shall the apartment sold, be subject to a charge for any unpaid share of common expenses against such

apartment accrued prior to such sale or bequest in excess of the amount therein set forth.

## **21. Insurance.**

- The Manager or Board of Managers, if required by the Declaration or the or by a majority of the apartment owners, or at the request of a mortgagee h3 a first mortgage covering an apartment, shall have the authority to, and shall obtain insurance for the property against loss or damage by fire, and such other hazards under such terms and for such amounts as shall be required, or requested. Such insurance coverage shall be written on the property in the name of such Manager or of the Board of Managers of the Association of the Apartment Owners as trustee for each of the apartment owners in the percentages established in the Declaration. Premiums shall be common expenses. Provisions for such insurance shall be without prejudice to the right of each apartment owner to insure his own apartment for his benefit.

## **22. Disposition of property; destruction or damage.**

- If within sixty days of the date of damage or destruction to all or part of the property, it is not determined by the Association of Apartment Owners to repair, reconstruct or rebuild, then and in that event, -(a) the property shall be deemed to be owned in common by the apartment owners; (b) the undivided interest in the property owned in common which shall appertain to each apartment owner shall be the percentage of the undivided interest previously owned by such owner in the common areas and facilities; (c) any encumbrances affecting any of the apartments shall be deemed to be transferred in accordance with the existing priority to the percentage of the undivided interest of the apartment owner in the property as provided therein; (d) the property shall be subject to an action for partition at the suit of any apartment owner, in which event the net proceeds of sale together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the apartment owners in percentage equal to the percentage of undivided interest owned by each owner in the property after first paying out, all the respective shares of the apartment owners to the extent sufficient for the purpose and all charges on the undivided interest in the property owned by each apartment owner.

## **23. Action.**

- Without limiting the rights of any apartment owner, actions may be brought by the Manager or Board of Managers, in either case in the discretion of the Board of Managers on behalf of two or more of the apartment owners as their respective interest may appear, with respect to any cause of action relating to the common areas and facilities or more than one apartment. Service of process on two or more apartment owners in any action relating to the common areas and facilities or more than one apartment may be made on the person designated in the Declaration to receive service of process.

## **24. Act to be binding on apartment owners, tenants, etc.**

(1) All Apartment owners, tenants of such owners, employees of owners and tenants, or any other person that may in any manner use property or any part thereof submitted to the provisions of this Act shall be subject to this Act and to the Declaration and the bye-laws of the Association of Apartment Owners adopted pursuant to the provisions of this Act. (2) All agreements, decisions and determinations lawfully made by the Association of Apartment Owners in accordance with the voting percentages established under this Act, Declaration or bye-laws, shall be deemed to be binding on all apartment owners.

### **24A. [ Power to exempt from stamp duty, registration fee and court-fees; power to refund. [Section 24A was inserted by Maharashtra 53 of 1974, Section 5.]**

(1) The State Government, by notification in the Official Gazette, may reduce or remit whether prospectively or retrospectively—(a) the stamp duty with which under any law relating to stamp duty for the time being in force, instruments or documents executed by or on behalf of a promoter, an apartment owner or association of apartment owners relating to any of the purposes of the Act are respectively chargeable; (b) any fee payable by or on behalf of any promoter, apartment owner or association of apartment owners in relation to instruments or documents referred to in clause (a) under any law relating to the registration of documents or to court-fees, for the time being in force, which the State Government is competent to levy. (2) The State Government may refund the amount of any duty or fee paid in pursuance of any law referred to in sub-section (1) in such circumstances, to such extent and subject to such terms and conditions, if any, as the State Government may by order determine.]

## **25. Power to make rules.**

(1) The State Government may, subject to the condition of previous publication by notification in the Official Gazette, make rules for carrying into effect the provisions of this Act. (2) Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made and notify such decision in the Official Gazette, the rule shall, from the date of publication of such notification 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 or omitted to be done under that rule.

## **26. Removal of doubt.**

- For the removal of doubt, it is hereby declared that the provisions of the 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 appurtenant to such apartment as those provisions apply in relation to any immovable property, and the provisions of this Act shall take effect, notwithstanding anything to the contrary contained in any contract.

## 27. Amendments to certain Acts.

- The [enactment] [This word was substituted for the word 'enactments' by Maharashtra 14 of 1986, Section 5.] specified in the Schedule hereto shall be amended in the manner and to the extent specified in the third column thereof.

## 28. Severability.

- If any provision of this Act or any section, sentence, clause, phrase, or word, or application thereof in any circumstances is held invalid, the validity of the remainder of this Act and of the application of any such provision, section, sentence, clause, phrase or word, in any other circumstances shall not be affected thereby.

## Schedule

(See Section 27)

Number and year of enactment	Subject or title	Extent of amendment
1	2	3
[* [The entries relating to the Bombay Housing Board Act, 1948 and the Madhya Pradesh Housing Board Act, 1950 were deleted by Maharashtra 14 of 1986, section 6.]	* [The entries relating to the Bombay Housing Board Act, 1948 and the Madhya Pradesh Housing Board Act, 1950 were deleted by Maharashtra 14 of 1986, section 6.]	* [The entries relating to the Bombay Housing Board Act, 1948 and the Madhya Pradesh Housing Board Act, 1950 were deleted by Maharashtra 14 of 1986, section 6.]
Maharashtra XLV of 1963.	The Maharashtra	(1) In Section 2 —

Ownership  
Flats  
(Regulation  
of the  
promotion of  
construction,  
sale,  
management  
and  
transfer) Act,  
1963

- (a) in clause (a),  
after the  
words "part  
of a building"  
the words  
"and includes  
an  
apartment" shall  
be added;
- (b) in clause (c),  
after the  
words  
"building of  
flats" the  
words "or  
apartments"  
shall  
be inserted;
- (c) in clause (e),  
after the  
word  
"flats" at both  
the places  
where it  
occurs, the  
words  
"or apartments"  
shall be  
inserted;
- (d) after clause  
(e), the  
following

shall be  
added,namely

:-

- "(f) the  
expressions  
'apartment'  
and  
'apartmentowner'  
shall have the  
meanings,  
respectively  
assigned to  
them in the  
Maharashtra  
Apartment  
Ownership  
Act, 1970."  
After clause  
(e), the  
following  
shall be  
added,  
namely:-  
Section 10  
shall be  
renumbered  
as  
sub-section(1)  
of that  
section and  
after  
(2) sub-section  
(2) so  
renumbered,  
the following  
sub-section  
shall be  
added,  
namely:—  
"(2) If any  
property  
consisting of  
building

or buildings is  
constructed  
or to be  
constructed  
and the  
apartment takers  
propose to  
submit the  
apartments  
to the  
provisions of  
the Maharashtra  
Apartment  
Ownership  
Act, 1970 by  
executing Declarations  
and Deeds of  
Apartments  
as required  
by that  
Act, then the  
promoter  
shall inform  
the Registrar  
as defined in  
the Maharashtra  
Co-operative  
Societies Act,  
1960  
accordingly;  
and in such  
cases, it shall  
not be lawful  
to form any  
cooperative society  
or company,  
and each  
apartment  
owner shall  
be entitled to  
the exclusive  
ownership  
and  
possession of

his  
apartment  
as provided in  
the first  
mentioned  
Act."

In section 11,  
after the  
word  
"flattakers"  
the words "or  
apartment  
owners" shall  
be inserted.

(3)

Notifications G.N., U.D., P.H., & H.D., No. FOB/1071/26752-J, dated 10th August, 1972 (M.G., Part IV-B, page 1353) - In exercise of the powers conferred by sub-section (3) of section 1 of the Maharashtra Apartment Ownership Act, 1970 (Maharashtra XV of 1971), the Government of Maharashtra hereby appoints the 10th day of August, 1972 to be the date on which the remaining provisions of the said Act, shall come into force in the areas specified in the Schedule hereto appended.

## Schedule 2

Sr.No.	Name of Area	Name of the District
1.	The area within the limits of the Municipal Corporation of Greater Bombay.	Bombay and Suburban District.
2	The area designated as the site for the proposed new town, that is to say, New Bombay, by Government Notification, Urban Development, Public Health and Housing Department, No. RPB. 1171/18124-1.W., dated 20th March, 1971.	Thana and Kolaba.
3	The area within the limits of the Municipal Corporation of the City of Poona.	Poona District.
4	The area within the limits of the Corporation of the City of Nagpur	Nagpur District
5	The area within the limits of the Municipal Corporation of the City of Sholapur.	Sholapur District
6	The area within the limits of the Akola Municipal Council.	Akola.
7	The area within the limits of the Amravati Municipal Council.	Amravati.
8	The area within the limits of the Aurangabad Municipal Council	Aurangabad.
9	The area within the limits of the Jalna Municipal Council.	Do.



10	The area within the limits of the Bhir Municipal Council.	Bhir.
11	The area within the limits of the Dhulia Municipal Council.	Dhulia.
12	The area within the limits of the Jalgaon Municipal Council.	Jalgaon.
13	The area within the limits of the Ichalkaranji Municipal Council.	Kolhapur.
14	The area within the limits of the Kolhapur Municipal Council.	Do.
15	The area within the limits of the Nanded Municipal Council.	Nanded.
16	The area within the limits of the Malegaon Municipal Council.	Nasik.
17	The area within the limits of the Nasik Municipal Council.	Do.
18	The area within the limits of the Latur Municipal Council.	Osmanabad.
19	The area within the limits of the Osmanabad Municipal Council.	Do.
20	The area within the limits of the Udgir Municipal Council.	Do.
21	The area within the limits of the Basmatnagar Council.	Parbhani.
22	The area within the limits of the Parbhani Municipal Council.	Do.
23	The area within the limits of the Pimpri Chinchwad Municipal Council.	Poona.
24	The area within the limits of the Islampur Municipal Council.	Sangli.
25	The area within the limits of the Ambernath Municipal Council.	Thana.
26	The area within the limits of the Dombivali Municipal Council.	Do.
27	The area within the limits of the Thana Municipal Council.	Do.
28	The area within the limits of the Hinganghat Municipal Council.	Wardha.
29	The area within the limits of the Pulgaon Municipal Council.	Do.

G.N., H. & S.A.D., No. MAO. 1182/ 1613/D-II, dated 16th April, 1983 (M.G., Part IV-B, page 458) - In exercise of the powers conferred by sub-section (3) of section 1 of the Maharashtra Apartment Ownership Act, 1970 (Maharashtra XV of 1971), the Government of Maharashtra hereby appoints the 1st day of May, 1983 to be the date on which the remaining provisions of the said Act, shall come into force in the area within the limits of the Ahmednagar Municipal Council of Ahmednagar District. G.N., H. & S.A.D., No. MAD. 1180/(329)/II(ii), dated 28th May, 1982 (M.G., Part IV-B, page 548) - In exercise of the powers conferred by sub-section (3) of section 1 of the Maharashtra Apartment Ownership Act, 1970 (Maharashtra XV of 1971), the Government of Maharashtra hereby appoints the areas specified in column (2) of the Schedule annexed hereto as the additional areas in which, and the 28th day of May, 1982 as the date on which in those areas, the provisions of the said Act (other than section 1 which has already come into force) shall come into force.

### Schedule 3

Sr. No.	Name of Area	Name of the District
1	The area within the limits of the Kalyan Municipal Council.	Thane.
2		The area within the limits of the Ulhasnagar Municipal Council.
3456etc. }		To be filled in by the Department.

G.N., H. & S.A.D., No. MAO. 1085/(7758) II, dated 31st March, 1986 (M.G., Part IV-B, page 345) - In exercise of the powers conferred by sub-section (3) of section 1 of the Maharashtra Apartment Ownership Act, 1970 (Maharashtra XV of 1971), the Government of Maharashtra hereby appoints the 1st day of April, 1986 to be the date on which the remaining provisions of the said Act, shall come into force in the area of the villages of Tarapur and Boisar in Thane District.No. MAO. 1088/262/D. II, (M. G. G., Part IV-B, page 722) dated 18th June, 1990 - In exercise of the powers conferred by sub-section (3) of section 1 of the Maharashtra Apartment Ownership Act, 1971 (Maharashtra XV of 1971), the Government of Maharashtra hereby appoints the 20th day of June, 1990 to be the date on which the remaining provisions of the said Act, shall come into force in the areas of Sangli, Miraj, Tasgaon, Vita, Ashta Municipal Councils in Sangli District.Notification No. FOB. 1695/(CR-17)/R. & R. II dated 10th March, 1997 (M. G. G. Part IV-B, page 466) - In exercise of the powers conferred by sub-section (3) of section 1 of the Maharashtra Apartment Ownership Act, 1970 (Maharashtra XV of 1971), the Government of Maharashtra hereby appoints the 15th day of March, 1997, to be the date on which all the remaining provisions of the said Act, shall come into force in the area within the limits of the Sawantwadi Municipal Council in the Sindhudurg District.Notification No. FOB. 3895/C. R. 5/R. R. 2. dated 10th March, 1997 (M. G. G. Part IV-B, page 467) - In exercise of the powers conferred by sub-section (3) of section 1 of the Maharashtra Apartment-Ownership Act, 1970 (Maharashtra XV of 1971), the Government of Maharashtra hereby appoints the 15th day of March, 1997, to be the date on which the remaining provisions of the said Act shall come into force in the area within the limits of Talengaon Dabhade Municipal Council in Pune District.Notification No. G. N. H. D. FOB. 3799/CR-61/RR-II, dated the 5th September, 2002 (M. G. Part IV.B. page 880) - In exercise of the powers conferred by sub-section (3) of section 1 of the Maharashtra Apartment Ownership Act, 1970 (Maharashtra XV of 1971), the Government of Maharashtra, hereby appoints the 5th September, 2002 to be the date on which the remaining provisions of the said Act shall come into force also in the area within the limits of the Chiplun Municipal Council in the Ratnagiri District.Notification No. G. N. H. D. No. FOB. 29Q2/CR-134/RR-II, dated the 6th February, 2003 (M. G. Part IV-B. Ext. page 210) - In exercise of the powers conferred by sub-section (3) of section 1 of the Maharashtra Apartment Ownership Act, 1970 (Maharashtra XV of 1971), the Government of Maharashtra, hereby appoints the 6th February, 2003, to be the date on which the remaining provisions of the said Act shall come into force also in the area within the limits of the Ratnagiri Municipal Council in Ratnagiri District.Published in 2007, Maharashtra G.G. in part IV-B, page 873 Mantralaya, Mumbai-32, dated 31-5-2007 Notification No. FOB. 2005/CR-99/RR-II - In exercise of the powers conferred by sub-section (3) of section 1 of the Maharashtra Apartment Ownership Act, 1970 (Maharashtra XV of 1971) the Government of Maharashtra hereby appoints the 31st day May, 2007, to be the date on which the remaining provisions of the said Act shall come into force in the area within the limits of the Vadgaon Municipal Council in Kolhapur District.[MGG. Part IV-B dated 31-5-2007]Housing Department Mantralaya, Mumbai 400 032, dated the 31st May, 2007Maharashtra Apartment Ownership Act, 1970Notification No. FOB. 2006/CR-143/RR-II. - In exercise of the powers conferred by sub-section (3) of section 1 of the Maharashtra Apartment Ownership Act, 1970 (Maharashtra XV of 1971), the Government of Maharashtra, hereby appoints the 31st day May, 2007, to be the date on which the remaining provisions of the said Act shall come into force in the area within the limits of the Bhusaval Municipal Council in Jalgaon District.[MGG Part IV-B dated 31-5-2007 Page 875]