

The Bihar Apartment Ownership Rules, 2004

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Rule THE-BIHAR-APARTMENT-OWNERSHIP-RULES-2004 of 2004

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The Bihar Apartment Ownership Rules, 2004Published vide Notification No. 4211 dated 27.12.2004, Bihar Gazette (Extraordinary) dated 28.1.2005Notification No. 4211 dated 27.12.2004. - In exercise of the powers conferred by Section 24 of The Bihar Apartment Ownership Act, 2004, the Governor of Bihar is pleased to make the following Rules to implement the provisions of [The Bihar Apartment Ownership Act, 2004] [Now, Bihar Apartment Ownership Act, 2006.]:

1. Short title, extent, commencement and application of the Rules.

(1)These Rules may be called "The Bihar Apartment Ownership Rules, 2004."(2)It shall extend to the whole of the State of Bihar.(3)It shall come into force on such dates and in such areas which may be appointed by the State Government by notification in Official Gazette.(4)Application of the Rules: These Rules shall apply to every apartment, building constructed or converted into an apartment by land owner/promoter/ developer for purpose of selling/leasing to other persons all or some part of apartment/building which is used or is proposed to be used for residence, office, practice of any profession or for carrying on any occupation, trade or business or for any type of independent uses.

2. Definitions.

(a)In these Rules, (unless anything) "Act" means The [Bihar Apartment Ownership Act 2004] [Now, Bihar Apartment Ownership Act, 2006.].(b)"Byelaws" means the Bye laws framed under section 18 of the Act.(c)"Instrument" means a document referred to in sub section (4) of section 4 of the Act.(d)"Rules" means Rules made under section 24 of the Act.(e)"Section" means section of the Act.(f)"Form" means form appended to these Rules.(g)All expressions used in these Rules but not defined shall have the same meaning which is assigned to them in the Act.

3.

No person/group of persons i.e., Land owner/Land owners/Promoter/Promoters/Developer/Developers within the State of Bihar shall-(a)Erect Apartment or a building or a part of apartment or building.(b)Re-erect or make any material alteration of any building/apartment.(c)Develop or redevelop any piece of land for construction of an apartment/building (Meaning of Apartment and building as defined in sub-section-(b) of section 3 & sub-section (f) of section-3).Without submission of the declaration before competent authority as referred in section 2 and sub-section (I) of section 3 read with section 14 of the Act in following manner:-(i)The declaration referred to in section 2, section 14 and section 15 of the [Bihar Apartment Ownership Act 2004] [Now, Bihar Apartment Ownership Act, 2006.], by the sole owner and owners, as the case may be, of property shall be executed in Form A appended to this Rule and it(ii)shall be signed and verified by the sole owner or all the owners, as case may be, in presence of the first class magistrate or any other officer competent to administer the oath.(iii)Such declaration, after signed and verified in the aforesaid manner, shall be in strict conformity with provisions of sub-section (1) of section 15 and submitted to the competent Authority.(iv)On receipt of such declaration, the competent Authority, after following the procedure prescribed in clause (a) of sub-section (2) of section 15, shall record an order under clause (b) of sub-section (2) of section 15 in writing giving reason therefor accepting or rejecting the declaration or any amendment in the declaration.(v)In case of accepting the declaration, the competent Authority shall make an endorsement on the declaration, testifying to the fact of acceptance of the declaration and put his signature with date & seal. Thereafter, the Competent Authority, in accordance with Clause (c) of sub-section (2) of section 15 shall return the declaration paper along with enclosures to the declarant or all the declarants, as the case may be. Such declarant or declarants, as the case may be, shall present the declaration within 15 days from the date of return under Registration Act, 1908 to the office of Registrar having the jurisdiction for Registration.(vi)After registration of the declaration, the declarant or all the declarants, as the case may be, shall forthwith report in writing to the competent Authority with a copy of registered declaration.(vii)In case of rejection of declaration, the competent Authority shall make an order in writing giving reason therefor and the person aggrieved by such order of rejection may, in strict conformity with the provision of sub-section (6) of section 15, prefer an appeal to the Appellate Authority within 30 days from the date of rejection of declaration.(viii)On appeal, the Appellate Authority shall call for the relevant records from the competent Authority and shall, after hearing the parties, allow or dismiss the appeal with reasons to be recorded in writing and after disposal of such appeal, forthwith return the records along with a copy of that order to the competent Authority.(ix)Where, the declaration is accepted, by the appellate Authority, the competent Authority shall on receiving of the records from the Appellate Authority and after making an endorsement on the body of the declaration paper, forthwith return the declaration together with its enclosures to the declarant or the declarants, as the case may be, and shall thereupon, get the declaration registered under the Registration Act, 1908 in the office of Registrar having jurisdiction.(x)Any declaration may be amended under clause (b) of sub-section (2) of section 15, in any of the following circumstances-(a)When there is any bonafide mistake in the declaration;(b)Any alteration in the description or nature of the property or any part thereof relating to declaration is found; or(c)When subject to the approval of the competent Authority, an amendment is necessary for the purpose of carrying out the provisions of this

Act;(xi)(a)Sole owner or all the owners, as the case may be, shall submit to the competent Authority, a fresh declaration in Form A superscribed "Amended declaration" containing all required amendments in place of the portion to be amended.Such fresh declaration shall be accompanied by an Application for amendment in Form B and the circumstances due to which it is essential to amend the declaration, shall be stated clearly.(b)The fresh declaration referred to above in sub-clause (xi) (a) of clause (c) of Rule 3 shall be signed and verified by the sole owner or all the owners, as the case may be, in the manner laid down in above sub-clause (xi) (a) of clause (e) of Rule 3 and submitted to the competent Authority in accordance with the procedure laid down in sub-clause (iii) of Clause (c) of Rule 3.(c)After submission of fresh declaration and the application for amendment, the competent authority, after following the procedure laid down in clause (b) of sub-section (2) of section 15 of the Act, record an order under clause (a) of sub-section (2) of section 15 accepting the amendment, in the manner prescribed in clause (c) of Rule 3 an endorsement on the body of the fresh declaration submitted along with the application for amendment and return to the declarant or all the declarants, as the case may be. That declaration along with its endorsement in the manner laid down in sub-rule (iii) of Rule 3 and declarant or all the declarants, as the case may be, shall get that declaration duly registered, in strict conformity with the provision of sub-rule-(iii) of Rule 3 and shall further comply with the provisions of sub-rule (iv) of Rule 3.(d)When the competent authority, after following the procedure laid down in clause (a) of sub-section (2) of Section 15 of the Act records an order under clause (b) of sub-section (2) of Section 15 of the Act rejecting the proposed amendment, the person aggrieved by such order of rejection may, in strict conformity with the provisions of sub-section (6) of Section 15, of the Act prefer an appeal to the appellate authority against such order within thirty days from the date of order rejecting proposed amendment.(e)When an appeal is preferred in the aforesaid manner, the appellate authority shall call for the relevant records from the competent authority and shall, after hearing the parties, by an order in writing giving reason therefor, allow or dismiss the appeal and shall after disposal of the appeal, forthwith return the records along with a copy of that order to the competent authority.(f)When by the appellate order, the proposed amendment is accepted, the competent authority, on getting back the records from the court of appellate authority, shall make an endorsement on the body of the said fresh declaration and return the same to the sole declarant or all the declarants together with its enclosures in the manner prescribed in sub-clause (c) of clause (xi) of rule 3 and the declarant or all the declarants, as the case may be, shall get the fresh declaration registered in accordance with sub-clause (c) of Clause (xi) of Rule 3.

4. Execution and registration of an instrument referred to in subsection (4) of Section 4 of the Act.

(1)The instrument referred to sub-section (4) of Section 4 of the Act, shall be executed in Form C by the owner/owners of the apartment within 30 days from the date of execution of deed of purchase or the deed of lease transfer by which such owner/owners have acquired his/their interest in such apartment and shall be signed and verified by such owner/owners in the manner prescribed in sub-clause (ii) of clause (c) of Rule 3.(2)After such instrument is executed in the aforesaid manner, the same shall be submitted to the competent authority in accordance with the procedure prescribed in sub-clause (iii) of clause (c) of Rule 3.(3)When on receipt of such instrument, the competent authority, after following the procedure prescribed in clause (a) of sub-section (2) of Section 15 of

the Act, records an order under clause (b) of sub-section (2) of Section 15 of the Act accepting the instrument and in terms of clause (c) of sub-section (2) of Section 15 of the Act, return the instrument along with its enclosures to such owner/owners with endorsement on the body of the instrument, the owner/owners shall get the accepted instruments (as above) duly registered under the provisions of sub-clause (ix) of clause (c) of Rule 3.(4)When the competent authority after following the procedure laid down in clause (a) of sub-section 2 of Section 15 of the Act, records an order under clause (6) of sub-section 2 of Section 15 of the Act, rejecting the instrument, the person aggrieved by such order of rejection, (sub-section 6 of Section 15 of the Act) may prefer an appeal under the provisions, sub-section 6 of Section 15 of the Act, to the Appellate Authority within 30 days from the date of rejection by the competent Authority.(5)When aforesaid appeal is preferred, the appellate authority shall call for the relevant records from the competent Authority, and after hearing the parties, pass an order in writing giving reason therefor, allow or dismiss the appeal and after disposal of such appeal shall forthwith return the records alongwith a copy of that order to the competent Authority.(6)Where under an appellate order the instrument is accepted, the competent Authority, on getting back the records from the Appellate Authority, shall in the manner laid down in sub-clause (ii) of clause (c) of Rule 3, return the same together with its enclosures to the executant/executants, as the case may be, who shall, thereupon, get the instruments duly registered under sub-clause (xi) of clause (c) of Rule 3 and shall further comply with the provision of sub-clause (vi) of clause (c) of Rule 3.

5. Parties to the Deeds of Apartments.

- In case of the first deed of Apartment, the party of the first part shall be either the sole owner or all the owners of the property who has or have executed and got registered a declaration in Form 'A' and the party of second part shall be the apartment owner. In case of subsequent deed of Apartment, the party of first part shall be the Apartment owner/ owners and the party of the second part shall be his/her transferees/purchasers. Form-A (See sub-clause (i) of clause (c) of Rule 3) Declaration under Section 2 read with Section 13 of the [Bihar Apartment Ownership Act, 2004] [Now, Bihar Apartment Ownership Act, 2006.].

1. In pursuance of Section 2 of the [Bihar Apartment Ownership Act, 2004] [Now, Bihar Apartment Ownership Act, 2006.] read with sub-section (1) of Section 13 of the Act, I/we..... hereby declare that I/We am/are the owner/owners of the land bearing C.S. plot No....., Khata No..... Circle No..... Thana No..... Tauzi No..... M.S. plot No Circle No..... holding No..... Ward No..... street village/Mohalla P.S..... in the town of and I/We have purchased the aforesaid property on /taken lease for...year under registered deed of sale//lease date being Deed No..... Book No Volume No. Page No..... to..... of the year..... at Patna/.... Registration office and I/we have constructed on the said parcel of land described above a building containing apartments known as..... with common areas and common facilities meant for both

residential and commercial purposes under the [Bihar Apartment Ownership Act, 2004] [Now, Bihar Apartment Ownership Act, 2006].

Authenticated copies of building plans and site plan prepared by.....and duly sanctioned by Regional Development Authority/Municipality/Municipal Corporation are appended herewith and marked respectively as annexure "A" and "B" the relevant title deed is also appended and marked annexure "C" of this declaration.

2. (i) I/We.....do hereby furnish further the following particulars as required under sub-section (1) of Section 13 of the Act:

(ii) Full description of the property with boundary: (a) Area and description of the land upon which the building/buildings is/are constructed..... (b) Area and description of the building/buildings and buildings nos. (a) Plinth area..... in sq. Meter. (a) Number of Storeys..... (b) Number of Rooms:- (c) Other particulars, if any:- (iii) Area and description of common areas & facilities:- (a) Lawn, Tanks, Parks etc:- (b) Road and Pathways:- (c) Details of other common areas, if any:- (d) Water supply arrangements:- (e) Electrical installation within the property:- (f) Internal drainage/Sewerage system:- (g) Other common facilities, if any:- (iv) Description of the limited common areas and facilities, if any, stating to which apartments their use is reserved..... (i) Value of the property:- (ii) Nature of interest of the owner/owners in the property:- (iii) Existing encumbrances, if any, affecting the property:- (v) Description of common areas and facilities:- (a) The parcel of land described herein before:- (b) A basement consisting of..... sq. meters. (c) Parking facilities consisting of..... sq. meters. (d) Garden, lawn, children playing area etc. measuring sq. meters. (e) A lobby consisting of sq. meters. (f) Elevators, A stairways of..... sq. meters which leads from the ground floor to the roof of the building. (g) Water tower located on the roof of the building. (h) Elevator pent house with corresponding elevator equipment located on the roof of the building. (i) Plumbing network throughout the building. (j) Electric wiring network throughout the building. (k) Necessary light, telephone and public water connection. (l) The foundation and main walls, columns, girder, beams and roof of the building as described in the plan which forms parts of the deed. (m) Tanks, pumps, motors, fans, fire fighting equipment, compressor ducts. (n) Central air conditioning and heating equipment and in general all apparatus and installations existing for common use. (vi) Description of each apartment or each building:- (a) Apartment number..... or building number... (b) Location with boundary of apartment..... (c) Approximate area..... (d) Number of rooms..... (e) Immediate common areas to which it has access..... (f) Value of the apartment Rs. (g) Immediate common area to which it has access.... (vii) Percentage of individual interest in the common areas and facilities appertaining to each apartment and its owner to all purposes including voting..... (viii) Other Particulars, if any:- (3) I/We.....do hereby further declare, covenant and undertake as follows, that:- (a) Each apartment is a separate residential unit which is transferable and heritable as such, but it shall not be partitioned or subdivided for any purpose whatsoever. (b) Each apartment owner, present or in future shall be entitled to an undivided interest in the common areas and facilities in the percentage expressed in the declaration to such apartment. (c) The common areas and facilities general and restricted shall remain undivided

and no owner shall initiate any action for partition or division thereof so long as the property shall remain submitted to the provisions of the said Act.(d)The percentage of the undivided interest in the general or restricted common areas and facilities, as expressed in the declaration, shall not be altered except with the consent of all the apartment owners expressed in an amended declaration duly executed and registered as provided in the said Act.(e)During the period the property remains subject to the said Act, no encumbrance of any nature shall be created against the property, though such encumbrance may 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 as in relation to any other separate parcel of property subject to individual ownership.(f)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 instruments.(g)No apartment owner shall do anything which would be prejudicial to the soundness and safety of the property or reduce the value thereof or impair any easement or hereditament or shall add any material structure or execute any addition basement or cellar.(h)No apartment owner shall sell, transfer or rent out his/her apartment for any other purpose other than those mentioned in the deed of apartment.(i)For the purpose of effective administration of the property and for due maintenance, repair and replacement of the common areas and facilities, the apartment owner, shall strictly comply with the provisions of the said Act and the bye-laws made thereunder and shall pay their share of common expenses, as assessed by the association of apartment owners, and on failure to comply with any such requirement shall be a proper ground for action for damages or for other relief or reliefs at the instances of the manager on behalf of association of Apartment owners or in proper case by the association of Apartment owners.As Witness I/We have set our hands this Day of.....200.....and.....solemnly declare that what is stated in.....is true to my/our knowledge and what is stated in declaration is true to my/our information received from.... Sole owner/or all the owners of the property.(1)Sri/Smt.(2)Sri/Smt.(3)Sri/Smt.And so on, in presence of (I)..... Sri/Smt.(1)and(2)Solemnly affirmed before me on the.....Day ofMonth of year 200(Signature of the Magistrate/or personcompetent to administer oath.)Form-B(See sub-clause (x) of sub-rule (c) of Rule 3)Application for amendment of declaration submitted under sub-section (1) of Section 15 of the [Bihar Apartment Ownership Act, 2004] [Now, Bihar Apartment Ownership Act, 2006.]To,The competent authority.....(Appointed by the Government of Bihar under Clause (k) of Section (3) of the [Bihar Apartment Ownership Act, 2004] [Now, Bihar Apartment Ownership Act, 2006.])The application of.....of.....showeth,(1)That on the applicant/applicants had submitted a declaration in respect of.....under sub-section (1) of Section 15 of the [Bihar Apartment Ownership Act, 2004] [Now, Bihar Apartment Ownership Act, 2006.].(2)That it is necessary in the following circumstances to amend the said declaration, namely(a)State the grounds & facts(b).....(c)....."(3)That fresh declaration incorporating therein the amendment/ amendments to be effected is submitted with this application.(4)That in the circumstances stated herein before in paragraph 2 hereof the following amendment/amendments may be allowed namely:-(i)The entire.....appearing in para/clause of the declaration shall be amended by substitution in entries(i)..... (ii)..... (iii).....The petitioner (s), therefore, pray/prays that the amendment/amendments aforesaid be accepted & allowed and the fresh declaration submitted alongwith with this application be also accepted in place of the said declaration which was submitted on.....ApplicantForm-C(See Sub-Rule

(1) of Rule 4) Instrument to be executed by the apartment owner (s) under sub-clause (1) of clause (b) of sub-section (3) of Section 4 of the [Bihar Apartment Ownership Act, 2004] [Now, Bihar Apartment Ownership Act, 2006.]. (1) I/We hereby declare that I/We are the present owner of apartment No. on the floor of the apartment building commonly known as situated at Mohalla/Street in the city/town/village of within the police station in the district of which forms part of a property already submitted to the provisions of the [Bihar Apartment Ownership Act, 2004] [Now, Bihar Apartment Ownership Act, 2006.] under a declaration executed in conformity with the provisions of the said Act and registered in the office of the Registrar/Sub Registrar in Book No. Volume No. Page No. To deed no. of the year (2) I/We further declare that I/We acquired ownership in the said apartment under a deed of transfer duly registered in the office of the Registrar/Sub Registrar in book no. volume no. page no. To deed no. of the year. a copy of which deed of transfer is appended hereto as mentioned as Annexure "A". (3) I/We hereby further solemnly declare and undertake that I/We my/our heirs, Executors, administrative and assigns shall in respect of the said apartment, be subject to the provisions of the said Act and shall comply strictly with the bye-laws made under section of the said Act, and with the covenants, terms and conditions set forth in the said declaration. As witness whereof I/We have executed this deed and set over my/our hands on this day of the month of Year 200 and solemnly declare that what is stated in this is true to my/our knowledge and what is stated in and is true to my/our information received from and what is stated in paragraph 3 above is an undertaking given by me/us. (i) Sri/Smt. sole owner/or owners of the said apartment. (i) Sri/Smt. (iii) Sri/Smt. And so on in presence of (1) (2) Solemnly affirmed before me on the Day of Month of year 200 (Signature of the Magistrate/or person competent to administer oath)