©

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act XXVIII of 1996

THE WEST BENGAL APARTMENT OWNERSHIP (AMENDMENT) ACT, 1996.

[*Passed by the West Bengal Legislature.*]

[Assent of the President of India was first published in the *Calcutta Gazette, Extraordinary,* of the 10th November, 1998.]

[*10th November, 1998.*]

An Act to amend the West Bengal Apartment Ownership Act, 1972.

West Ben. Act XVI of 1972.

WHEREAS it is expedient to amend the West Bengal Apartment Ownership Act, 1972, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Forty-seventh Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

1. (1) This Act may be called the West Bengal Apartment Ownership (Amendment) Act, 1996.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 3 of West Ben. Act XVI of 1972.

2. In clause (a) of section 3 of the West Bengal Apartment Ownership Act, 1972 (hereinafter referred to as the principal Act),—

(1) for the words "residential unit;", the words "residential unit, and includes a flat." shall be substituted, and

(2) the following *Explanation* shall be added at the end:—

'*Explanation.*—"Flat" shall mean a separate residential unit, whether self-contained or not, used or intended to be used for any of the purposes referred to in sub-clauses (a) to (i) of clause (2) of section 390 of the Calcutta Municipal Corporation Act, 1980;'.

West Ben. Act LIX of 1980.

Amendment of section 5.

3. In sub-section (2) of section 5 of the principal Act, for the words "without the consent of all the apartment owners expressed", the words "without the written consent of all the apartment owners. Addition or alteration, if any, is to be expressed subsequently" shall be substituted.

Amendment of section 7.

4. In section 7 of the principal Act, the words "or shall add any material structure or excavate any additional basement or cellar" shall be omitted.

Amendment of seciton 10.

5. In sub-section (1) of section 10 of the principal Act,—

(1) in clause (d), for the words "approximate area,", the words "actual built-up area," shall be substituted;

(2) in clause (g), the words "for all purposes, including voting" shall be omitted.

Amendment of seciton 16A.

6. In sub-section (1) of section 16A of the principal Act, for the words "he shall,", the words, figures and letter "or if such owner stands in the way of submitting the property to the provisions of this Act and does not furnish the particulars or documents as required for execution of Declaration in accordance with the provisions of section 10A and the rules made under this Act, he shall," shall be substituted.

Insertion of new section 16B.

7. After section 16A of the principal Act, the following section shall be inserted:—

"Control and supersession.

16B. (1) If the Association of Apartment Owners having right to be exercised by the Manager or the Board of Managers fails to perform its functions under this Act or the bye-laws made thereunder, the Competent Authority may give to it such directions as that Authority considers fit.

(2) If the Competent Authority is of the opinion that the function of the Manager or the Board of Managers is detrimental to the interest of the Association of Apartment Owners or of the apartment owners or is against the public interest, the Competent Authority may give a notice to the Manager or the Board of Managers to show cause why he should not be removed or, as the case may be, it should not be superseded. If the reply of the Manager or the Board of Managers is not considered satisfactory, the Competent Authority may by order remove the Manager or supersede the Board of Managers, as the case may be, and appoint any member from amongst the members of the concerned Association of Apartment Owners or any employee of the State Government or any other person as administrator to perform the functions of the Manager or the Board of Managers, as the case may be, for a period not exceeding six months:

Provided that the Competent Authority may, if it considers necessary so to do, by order extend the period or removal of the Manager or supersession of the Board of Managers, as the case may be, for a further period, not exceeding six months at a time; so, however, that the aggregate period of removal or supersession, as the case may be, shall not exceed three years.".