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GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act XXXIV of 2001¹

THE WEST BENGAL APARTMENT OWNERSHIP (AMENDMENT) ACT, 2001.

[Passed by the West Bengal Legislature.]

[Assent of the President of India was first published in the *Kolkata Gazette, Extraordinary*, of the 7th March, 2003.]

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 Fifty-second Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Apartment Ownership (Amendment) Act, 2001.

Short title
and
commencement.

(2) It shall come into force at once.

2. For section 2 of the West Bengal Apartment Ownership Act, 1972 (hereinafter referred to as the principal Act), the following section shall be substituted:—

“Application

2. This Act shall apply to every building which is used, or is proposed to be used, mainly for residential purposes, and the sole owner or all the owners of every such building shall submit the same to the provisions of this Act by duly executing and registering a declaration setting out the particulars referred to in section 10:

Substitution
of new
section for
section 2 of
West Ben.
Act XVI of
1972.

Provided that the State Government may exempt, by a general or special order, any such owner for submitting such building to the provisions of this Act:

¹For proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 12th December, 2001.

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(Amendment) Act, 2001.*

[West Ben. Act

(Section 3.)

Provided further that notwithstanding such exemptions, the other provisions of this Act shall, upon the submission of such building to the provisions of this Act by the majority of the owners of such building, also apply to the owner exempted under the first proviso.”.

Amendment
of section
16A.

3. In sub-section (1) of section 16A of the principal Act,—
 - (a) after the words “If the owner of any apartment”, the words “or building” shall be inserted;
 - (b) in clause (a) after the words “any of the provisions of”, the word and figure “section 2,” shall be inserted.

**Statement of Objects and Reasons on the West Bengal
Apartment Ownership (Amendment) Bill, 2001
(Bill No. 33 of 2001).**

STATEMENT OF OBJECTS AND REASONS.

The West Bengal Apartment Ownership Act, 1972 (West Ben. Act XVI of 1972) (hereinafter referred to as the said Act), was passed in the State Legislature and assented to by the President in 1972 and the provisions of the said Act have been brought into force with effect from the 7th June, 1973. In course of execution of the provisions of the said Act, it has been noticed that some of the flat owners of a building are not willing to submit their apartments of the building under the provisions of the said Act. Naturally, majority of the owners who are willing to submit their apartments under the provisions of the said Act, cannot do so due to the unwillingness of some of the flat owners, obviously no Association can be formed under the said Act in such cases.

2. It has also been noticed that provision of penalty made in section 16A of the said Act does not apply to the sole owner of a building who escapes even violating the provisions of relevant sections of the said Act. Further, in section 16A of the said Act there is no provision of penalty for violation of section 2 of the said Act.

3. In view of the above, the State Government has decided to amend section 2 and section 16A of the said Act so that the provisions of the said Act become imperative to the few, who decline to submit their property under the said Act, if the majority owners of the building submit the same. The sole owner may also be penalised for violating the provisions of relevant sections of the said Act.

*The West Bengal Apartment Ownership
(Amendment) Act, 2001.*

XXXIV of 2001.]

4. The Bill has, accordingly, been framed with the above objects in view.
5. The Bill does not involve any additional burden on the State Exchequer.

KOLKATA,

The 28th November, 2001.

GOUTAM DEB,

Member-in-charge.
