

Views and comments of Public is solicited to the “Memorandum of legislation proposed to provide for Apartment Ownership Act, in repeal of the Tamil Nadu Apartment Ownership Act, 1994 (Tamil Nadu Act 7/1995)” and it shall be sent to the following Mail ID [housing.dept@tn.gov.in](mailto:housing.dept@tn.gov.in) or may be addressed to Thiru.S.Veeramani, Additional Secretary, Housing and Urban Development Department, Secretariat, Chennai – 600009 on or before 11.04.2022.

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APARTMENT OWNERSHIP ACT IN REPEAL OF THE TAMIL NADU  
APARTMENT OWNERSHIP ACT, 1994. (TAMIL NADU ACT 7/1995).**

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**MEMORANDUM OF LEGISLATION PROPOSED TO PROVIDE FOR APARTMENT OWNERSHIP ACT IN REPEAL OF THE TAMIL NADU APARTMENT OWNERSHIP ACT, 1994. (TAMIL NADU ACT 7/1995).**

1. **Short title, extent and commencement-** (1) This Act may be called the Tamil Nadu Apartment Ownership Act, 2022.  
(2) It extends to the whole of the State of Tamil Nadu.  
(3) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different areas.
2. **Applicability,** This Act shall apply to every apartment in a project constructed whether before or after the date of commencement of this Act.
3. **Definitions**
  - (a) "apartment" whether called block, chamber, dwelling unit, flat, office, showroom, shop, premises, suit, tenement, unit or by any other name, means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in a building, used or intended to be used for any residential or commercial use such as residence, office, shop, showroom or for carrying on any business, occupation, profession or trade, or for any other type of use ancillary to the purpose specified;
  - (b) "apartment number" means the number, letter, or combination thereof designating the apartment in the declaration or deed of adherence;
  - (c) "apartment owner(s)" means the person or persons owning an apartment and an undivided interest in the common areas and facilities in the percentage specified in the declaration and includes an outright purchaser or a hire purchase allottee of such apartment and undivided interest or a lessee taking the apartment on lease for a period of 30 years or more;
  - (d) "association of apartment owners" means the association competent to contract in its own name and formed in accordance with the model bye-law as may be prescribed;
  - (e) "building" means a building containing four or more apartments comprised in a property;
  - (f) "bye-laws" means the bye-laws made by the Association of Apartment owners under this Act;
  - (g) "carpet area" means the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment;
  - (h) "common areas and facilities" includes –
    - (1) the stair cases, lifts, staircase and lift lobbies, fire escapes, and common entrances and exits of project;

- (2) the common basements, stilt, terraces, parks, play areas, open parking areas and common storage spaces;
- (3) the premises for the lodging of persons employed for the management of the property including accommodation for watch and ward staffs or for the lodging of community service personnel;
- (4) installations of central services such as electricity, gas, water and sanitation, air-conditioning and incinerating, system for water conservation and renewable energy;
- (5) the water tanks, sumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use;
- (6) all community facilities developed in the property;
- (7) all other portion of the project necessary or convenient for its maintenance, safety, etc., and in common use including limited common areas.

(i) "common expenses" means-

- (1) all sums lawfully assessed against the apartment owners by the society or the association of apartment owners;
- (2) expenses of administration, maintenance, repair or replacement of the common areas and facilities;
- (3) all legal expenses as may be incurred by the society or association of apartment owners for the enforcement of lawful claims of the society or apartment owners;
- (4) expenses resolved as common expenses by the society or association of apartment owners; and
- (5) expenses declared as common expenses by the provisions of this Act, or by the bye-laws;

(j) "common profit" means the balance of all income, rents and revenues from the common areas and facilities remaining after deduction of the common expenses.

(k) "competent authority" means the Regional Deputy Registrar of Co-operative Societies (Housing) having jurisdiction over the area.

(l) "date of the commencement of the Act" in relation to any area means the date appointed by the notification issued under sub-section (3) of Section 1 in relation to such area;

(m) "declaration" means a declaration executed in pursuance of Section 5;

(n) "development" means development which its grammatical variations and cognate expressions, means carrying out the development of immovable property, engineering or other operations in, on, over or under the land or the making of any material change in any immovable property or land and includes re-development;

(o) "existing building" means buildings constructed and occupied or ready for occupancy before the commencement of this Act;

(p) "federation" means the body formed by multiple society or Association of apartment owners for the purpose of maintaining and managing the common areas and facilities which are commonly enjoyed and availed by all the apartment owners in the property, wherein handover of possession is phase-wise.

(q) "Government" means the State Government;

(r) "limited common areas and facilities" means those common areas and facilities which may be designated in the declaration as reserved for use of certain apartment or apartments to the exclusion of the other apartments which includes reserved car park spaces, exclusive balcony, verandah area, exclusive open terrace area appertaining to the apartment;

(s) "person" includes an individual, an undivided Hindu family, a firm, a company or an association or a body of individuals whether incorporated or not;

(t) "prescribed" means prescribed by rules made under this Act;

(u) "project" means the development of a building or existing building or redevelopment of an existing building or a part thereof, as a whole or in phases together with the common areas and facilities including the site area;

(v) "property" means projects developed in one or multiple phases in the site area as per the sanctioned plan;

(w) "promoter" means-

(i) a person who constructs or causes to construct a building consisting of apartments, or converts an existing building or a part thereof into apartments; or

(ii) any development authority or any other public body in respect of buildings constructed by such authority or body, on lands owned by them or placed at their disposal by the Government;

(iii) housing society which constructs buildings for its members or in respect of the allottees of such buildings; or

(iv) any other person who acts himself as a builder, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building; or

(v) such other person who constructs any building.

Explanation. For the purposes of this clause, where the person who constructs or converts a building into apartments and the persons who sells the land are different persons, both of them shall be deemed to be the promoters and shall

be jointly liable as such for the functions and responsibilities specified, under this Act or the rules or by laws made thereunder;

(x) "reserved car park spaces" means an enclosed or unenclosed, covered or open area which is sufficient in size to park vehicles and which may be provided in basements and/or stilt and/or podium and/or independent structure built for providing parking spaces and/or parking provided by mechanized parking arrangements and which is not a garage.

(y) "society" means existing association representing the majority of apartment owners in a property registered under Tamil Nadu Co-operative Societies Act, 1983 (Tamil Nadu Act 30 of 1983) or Tamil Nadu Societies Registration Act, 1975 (Tamil Nadu Act 27 of 1975);

(z) "sanctioned plan" means the site plan, building plan, service plan, parking and circulation plan, landscape plan, layout plan, zoning plan and such other plan and includes structural designs, if applicable, permissions such as environment permission and such other permissions, which are approved by the sanctioning authority for development of a project;

(aa) "sanctioning authority" means the local authority or any authority created or established under any law for the time being in force by the Central or Government which exercises authority over land under its jurisdiction, and has powers to give permission for development of such immovable property;

(ab) "site area" means the area of the entire parcel of land covered under the sanctioned plan

(ac) "subsequent apartment owner" means any person acquiring an apartment by way of purchase from the apartment owner.

4. **Apartment to be heritable and transferable-** (1) Each apartment owner shall be entitled to the exclusive ownership and possession of his apartment.

(2) An apartment, together with its undivided interest in the common areas and facilities, shall constitute heritable and transferable immovable property within the meaning of any law for the time being in force:

Provided that no apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment shall be partitioned or sub-divided for any purpose whatsoever.

5. **Declaration-**

(1) The promoter or society or majority of apartment owners, as the case may be, shall submit such project to the provisions of this Act, within such period as may be prescribed, by duly executing and registering a declaration with the competent authority.

(2) The declaration referred to in sub-section (1) shall be submitted in such form, accompanied by such fees and in such manner as may be prescribed;

- (i) Name of the apartment owner;
- (ii) Nature of interest of the apartment owner or owners in the property;
- (iii) existing encumbrance, if any, affecting the property;
- (iv) description of each apartment containing its number, location, actual carpet area, and any other data necessary for its proper identification;
- (v) description of the common areas and facilities;
- (vi) description of the limited common areas and facilities, if any, stating to which apartments their use is reserved;
- (vii) provisions as to the percentage of votes by the apartment owners, the percentage of votes shall be in proportion to the undivided interest of each apartment owner;
- (viii) site area of the property and the percentage of undivided interest in the common areas and facilities appertaining to each apartment and its apartment owner);  
Explanation---The percentage of undivided interest of an apartment shall be the proportion of the carpet area of such apartment to that of the total carpet area of the project;
- (ix) such other particulars as may be prescribed.

(3) The declaration made under sub-section (1) may be amended in any of the following circumstances, namely

- (i) when there is any bona fide mistake in the declaration, or
- (ii) subsequent to the submission of declaration, when there is any alteration in the description or nature of the property or any part thereof to which such declaration relates, or
- (iii) when subject to the approval of competent authority, an amendment is necessary for carrying out the purposes of the Act.

(4) On receipt of a declaration or an amendment thereto, the competent authority shall, --

- (a) after issuing notice to the parties concerned and after holding such inquiry, if any, as he may consider necessary for the purpose, examine the declaration, or the amendment, as the case may be, to ascertain whether --
  - (i) the property concerned comes within the purview of the Act, and
  - (ii) the declaration, or the amendment is in order,



(b) by an order in writing giving reasons therefor, accept the declaration, or the amendment, as the case may be, within such time as may be prescribed, and

(c) in case of acceptance, the competent authority shall make an endorsement on the body of the declaration or the amendment, as the case may be, testifying to the fact of acceptance of the declaration, put its dated signature and set its seal and return one original copy of declaration or the amendment, as the case may be, along with all the enclosures to the declarant(s).

(d) If the competent authority were to find on examination that the declaration, or the amendment, as the case may be, does not conform to the requirements of the Act or Rules thereunder, it shall return the declaration or its amendment, as the case may be, indicating the reasons therefor to remedy the defects within such period as may be prescribed and upon rectification within the period allowed, the procedure laid down in Clause (a) and (b) of sub-section (4) shall follow.

(5) Any person aggrieved by an order of the competent authority, may appeal to such appellate authority as the Government may, by notification appoint: Provided that such appeal shall be made within such period as may be prescribed or within such further period as the appellate authority may allow on sufficient grounds being shown in this behalf.

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.

(2) The percentage of the undivided interest of each apartment owner in the common areas and facilities as expressed in the declaration shall not be altered. The additions or alterations, if any, in the common areas and facilities shall not be carried out without express written consent of minimum two-thirds of the apartment owners, provided such additions or alteration are permitted under the Law for the time being in force. Such permitted additions or alterations shall be recorded subsequently in an amended declaration duly executed and registered in the relevant form as may be prescribed. 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 other person shall bring any action for partition or division of any part thereof.

- (4) Each apartment owner may use the common areas and facilities for the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other apartment owners.
- (5) The work relating to the maintenance, repair and replacement of the common areas and facilities and the making of any additions or improvement thereto shall be carried out in accordance with the provisions of this Act and the by-laws made thereunder.
7. **Bye-laws-** (1) Every project or property, as the case may be, shall be administered and governed in accordance with the bye-laws of the association of apartment owners.
- (2) The bye-laws referred to in sub-section (1) shall be in such form as may be prescribed under this Act.
- (3) The bye-laws shall provide for the following, namely:-
- (i) the manner in which the association of apartment owners is to be formed, the election of a board of managers from among the apartment owners, the number of persons constituting the board, the number of members of such board to retire annually, the powers and duties of the board, the honorarium, if any, of the members of the board, the method of removal from office of members of the board, the powers of the board to engage the services of a secretary or manager, delegation of powers and duties to such secretary or manager;
  - (ii) method of calling meetings of the apartment owners and the number to constitute quorum;
  - (iii) election of a president who shall preside over the meetings of the Board and of the association of apartment owners;
  - (iv) maintenance, repair and replacement of the common areas and facilities and payment thereof;
  - (v) manner of collecting share of the common expenses from the apartment owners;
  - (vi) any other matter considered to be necessary for the administration of the property.
8. **Formation of Association of apartment owners-** pursuant to the execution and registration of declaration, the apartment owners shall form an association of the apartment owners in such manner as may be prescribed.
9. **Compliance with covenants, bye-laws and administrative provisions-** (1) Each apartment owner shall comply strictly with the bye-laws and with the covenants, conditions and restrictions set forth in the declaration.

(2) Where any apartment owner fails to comply with any of the bye-laws or covenants, conditions and restrictions referred to in the bye-laws or covenants, conditions and restrictions referred to in sub-section (1) such failure shall be a ground for an action against such apartment owner to recover sums due, for damages or injunctive relief or both, maintainable by the Association of apartment owners or, in a proper case, by the aggrieved apartment owner.

(3) Notwithstanding anything contained in the Transfer of Property Act, 1882, or in any other law for the time being in force, any person, acquiring by purchase or by inheritance in respect of the said apartment from the apartment owner, be subject to the provisions of this Act.

(4) The subsequent apartment owner shall have the same powers and duties as vested in the apartment owner under this Act.

**10. Formation of federation -** (1) In case of large complex comprising of more than one project, developed as per the sanctioned plan (including revisions, if any) before or after the commencement of this Act, having multiple society or association of apartment owners, as the case may be, the common areas and facilities declared by every such society or association of apartment owners shall be deemed as the collective common areas and facilities of the federation and the federation shall execute and register a declaration of federation in such form accompanied by such fees, as may be prescribed.

(2) The declaration of federation referred to in sub-section (1) may be amended in any of the following circumstances:

- (i) when there is any bona fide mistake in the declaration of federation, or
- (ii) subsequent to the submission of declaration of federation, when there is any alteration in the description or nature of the property or any part thereof to which such declaration relates, or
- (iii) when subject to the approval of competent authority, an amendment is necessary for carrying out the purposes of the Act.

(3) Common areas and facilities of Federation shall remain undivided and no society or association of apartment owners or member of such society or association or any other person shall bring any action for partition or division of any part thereof.

**11. Re-development of apartments-** Notwithstanding anything contained in this act, any work pertaining to re-development of a project may be carried out on such terms and conditions, as may be prescribed, after obtaining consent of minimum two-thirds of the apartment owners of such project:

Provided that, in respect of such project-

- (1) A period of thirty years must have been completed from the date of completion of construction of the project; or
- (2) the appropriate authority has certified that such building is in ruinous condition, or likely to fall, or in any way dangerous to any person occupying, resorting to or passing by such structure or any other structure or place in the neighbourhood thereof.

Explanation- For the purpose of sub-section (1) of Section 12, the construction of the project shall be deemed to be completed on the date of completion certificate or property tax assessment or permanent electricity connection, from the appropriate statutory authority, whichever is earlier.

**12. Suo motu action by the competent authority-** (1)Where the promoter, majority of owner or society, as the case may be, fail to submit the declaration referred to in section 5 or 10 , the competent authority shall, in the prescribed manner, take such action as he may deem necessary for submission of the declaration by the promoter, majority of owner or society, as the case may be. Provided that no order shall be passed under this sub-section without giving the parties concerned, a reasonable opportunity of being heard.

(2)Any person aggrieved by the order of the competent authority under sub-section (1), within sixty days from the date of communication of the order, prefer an appeal before such appellate authority as the Government may, by notification in the official gazette, appoint.

**13. Insurance-** Without prejudice to the right of each apartment owner to insure his own apartment for his benefit, the association of apartment owners shall if so required by a majority of apartment owners, insure the property against fire, flood, cyclone and such other hazards under such terms and for such accounts as shall be required. The policy of insurance shall be written on the property in the name of the Association of apartment owners as trustee for each of the apartment owner in the percentage specified in the declaration and the premium payable under such policy of insurance shall be common expenses.

**14. Disposition of property on destruction or damage-** Where, in the event of the property either in the entirety or in part being damaged or destroyed and the society or the Association of apartment owners has not undertaken to repair, reconstruct or rebuild within a period of ninety days or such further period as may be specified by the competent authority from the date of damage or destruction,-

(a) the property shall be deemed to be owned in common by all the apartment owners in the same percentage as the percentages of the undivided interest specified in the declaration;

(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 encumbrance 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 those apartment owners in the property.

(d) No apartment owner shall do any work which would be detrimental to the soundness or safety of the property or would reduce the value thereof or impair any easement or hereditament or shall add any material structure or excavate any additional basement or cellar without first obtaining minimum two-thirds consent of the other apartment owners, in writing, provided necessary revised sanctioned plan is obtained from the sanctioning authority.

Explanation: for the purpose of this clause, a person owning more than one apartment, shall be deemed to be one apartment owner.

**15. Action by Association of Apartment owners on behalf of the apartment owners-**Without limiting the rights of any apartment owner, action may be brought by the association of apartment owners on behalf of any apartment owner as his respective interest may appear, with respect to any cause of action relating to the common areas and facilities

**16. Right of Association of apartment owners to maintain, repair and replace any of the common areas and facilities, etc.,-** The association of apartment owners shall have right of access to each apartment from time to time during reasonable hours, for the maintenance, repair and replacement of any of the common areas and facilities therein or accessible therefrom, or for making emergency repairs therein to prevent any damage to the common areas and facilities or to other apartments.

**17. Common profits and expenses-** (1)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.

(2) Every apartment owner shall, notwithstanding his waiver of the use or enjoyment of any of the common areas and facilities or his abandonment of his apartment, be liable to be charged to the common expenses under sub-section (1).

(3) Where the apartment owner is not in occupation of the apartment owned by him the common expenses payable by such apartment owner may be recovered from the person in the occupation of the apartment.

**18. Common expenses to be charged on property-** All sums assessed by the association of apartment owners as the share of the common expenses

chargeable to any apartment shall, constitute a charge on such apartment, subject to the prior claim, if any,-

(i) of the Government in respect of land revenue or any money recoverable as land revenue,

(ii) of any municipality or other local authority in respect of tax or other assessment, and

(iii) of the mortgage, in respect of all sums unpaid.

19. **Separate assessment-** Notwithstanding anything to the contrary contained in any law for the time being in force,-

(a) each apartment and its percentage of undivided interest in the common areas and facilities of such apartment, 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

(b) the building, or the property or any of the common areas and facilities shall not be assessed to any such tax separately.

20. **Accounts-** (1) Every association of apartment owners or federation, as the case may be, shall keep proper books of accounts and at the expiration of each financial audit year, prepare a receipts and expenditure account and a balance-sheet and shall cause them to be audited within three months from the end of each financial year, by an auditor to be appointed by the association of apartment owners or federation, as the case may be, in the manner as may be prescribed.

(2) Every association of apartment owners or federation, as the case may be, shall within such period as may be prescribed, file with the Competent Authority – (i) an authenticated copy of such receipts and expenditure account, balance sheet and report, and (ii) a statement of the names, addresses and occupations of the persons who, at the expiry of the financial year, were members of the association of apartment owners or federation, as the case may be.

(3)The Competent Authority shall have the power to issue directions to the association of apartment owners or federation, from time to time, with reference to such report and such direction shall be binding upon the association of apartment owners or federation, as the case may be.

21. **Joint and several liability of vendor, etc., for unpaid common expenses-**

Where any apartment has been sold or otherwise transferred, the purchaser or the transferee, as the case may be of the apartment shall be jointly and severally liable with the vendor or the transferor for all unpaid assessments against the latter towards his share or the common expenses upto the time of sale or transfer without prejudice to the purchaser's or transferee's right to

recover from the vendor or transferor, the amount, if any paid by the purchaser or transferee therefore. Any such purchaser or transferee shall be entitled to a statement from the Association of apartment owners setting forth the amount of the unpaid assessment against the vendor or transferor and such purchaser or transferee shall not be liable for, nor shall the apartment sold or transferred, be subject to a charge for any unpaid share of common expenses against such apartment accrued prior to such sale or transfer in excess of the amount set forth in such statement.

**22. Act to be binding on apartment owners, tenants, etc-** (1) All apartment owners, tenant of such owners, employees of apartment owners or tenants, or any other person who may, in any manner, use the property or any part thereof to which this Act applies, shall be subject to the provisions of this Act and the bye-laws and the rules made thereunder.

(2) All agreements, decisions and determinations lawfully made by the society or the Association of apartment owners, as the case may be, in accordance with the provisions of this Act or the bye-laws shall be deemed to be binding on all apartment owners.

**23. Penalty-** (1) Whoever contravenes, any of the provisions of this Act or rules or order or direction issued thereunder or any bye-law that may be framed or any covenant, condition or restriction set for in the declaration to which he is subject or is a party, or 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 and the rules made under this act, shall, at the instance of the Association of Apartment owners or an aggrieved apartment owner or any person or in a proper case the competent authority, on conviction before the Judicial Magistrate, be liable to a fine which may extend to one lakh rupees and in case of continuing contravention, to an additional fine which may extend to five hundred rupees for every day during which such contravention continues after the conviction.

(2) The provisions of this section shall apply without prejudice to section 9, 18 and 21.

**24. Control and supersession-** (1) If the board of managers fails to perform its functions under this act or the bye-laws made thereunder, on receipt of a complaint from the association the competent authority may, on receipt of complaint from an aggrieved apartment owner, in such manner as may be prescribed, give to it such directions as that competent authority considers fit.

(2) If the competent authority is of the opinion that the function of 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, it should not be

superseded, as the case may be. If the reply of 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 Government or any other person as administrator to perform the functions of 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 as to do, by order extend the period of 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.

25. **Act to override other laws-** (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom, usage or agreement or decree or order of a court, tribunal or other authority.
- (2) Save as otherwise provided in sub-section (1), the provisions of this Act, shall be in addition to and not in derogation of, any other law for the time being in force.
26. **Removal of doubts-** For the removal of doubts it is hereby declared that the provisions of the Transfer of Property Act, 1882 (Central Act IV of 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 of 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. **Power to make rules-** The Government may make rules for carrying out the purposes of this Act.
28. **Power to remove difficulties-** If any difficulty arises in giving effect to the provisions of this act, the Government may, by an order published in the Tamil Nadu Government gazette, make such provisions not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient for removing the difficulty:
- Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.
29. **Repeal and savings-** (1) The Tamil Nadu Apartment Ownership Act, 1994 (Act No. VII of 1995) is hereby repealed.
- (2) Notwithstanding such repeal and subject to the provisions of this Act, all cases and other proceedings under the said Act pending, at the commencement of this Act, shall be continued and disposed of in accordance with the provisions of the said Act, as if the said Act had continued in force and this Act had not been passed.



## **MEMORANDUM OF LEGISLATION**

### **Tamil Nadu Apartment Ownership (Amendment) Act 2022**

#### **STATEMENT OF OBJECTS AND REASONS**

1. The purpose of enacting the Tamil Nadu Apartment Ownership Act, 1994 (Tamil Nadu Act VII of 1995) was to effectively manage apartment community and to acknowledge the rights and duties of apartment owners. The said Act envisages formation of association of apartment owners or society to undertake of maintenance and management of common areas and facilities in the property.
2. In due course of administration of the provisions of the said Act over the years, it has been observed that there are several shortcomings and practical difficulties in complying with the requirements laid down in the provisions of the said Act as the real estate sector have undergone drastic transformation since the enactment of the Act in 1997. During the last four decades, the housing industry has come a long way and has witnessed development of not only stand-alone high rises but also large complexes and townships with multiple residential and commercial provisions including phased developments. As the scenario has changed, a need for replacement of the existing Act by new provisions more responsive to needs of the present day was required.
3. In view of the dynamic developments in housing industry, expansion and growth of the real estate sector of Tamil Nadu, and in the interests of effective delineation of rights and responsibilities of apartment owners in large complexes and townships, and in order to provide for effective management and maintenance of apartment community, the State Government after due deliberations, has made a considered decision to enact a new

legislation by repealing the Tamil Nadu Apartment Ownership Act, 1994 (Tamil Nadu Act VII of 1995).

4. In view of the present-day aspirations and needs of the people, the new legislation, the Tamil Nadu Apartment Ownership Act, 2022 is being introduced to safeguard the interest of the apartment owners as well as improving the administration of common areas and facilities. This Bill, while giving effect to the changes that are necessary due to the change of circumstances provides, among other things, for the following matters, namely:

- a. One 'declaration' for each project;
- b. Association of apartment owners – only one recognised association under the new legislation;
- c. Prescribed model bye-laws to be followed by the Association of Apartment owners;
- d. Formation of federation of Associations in case of large complex, comprising of more than one project;
- e. Single Competent Authority;
- f. Consistent formula for calculating percentage of undivided interest;
- g. Provisions for re-development of dilapidated building with two-third consent of apartment owners;
- h. Introduction of penal provisions for non-submission to the provisions of the Act;
- i. Introduction of grievance redressal mechanisms; and
- j. Definitions in line and consistent with RERA Act for effective and efficient adjudication.

5. This Bill seeks to achieve the aforesaid objectives.