

# **Most states miss RERA deadline**

Of those which meet it, many water down crucial provisions of the Act

**CRISIL Impact Note | May 2, 2017**

## Conditional coverage defies the central Act

Despite continuous monitoring and follow up by the Ministry of Urban Development and Housing, Government of India, only **nine states** (Andhra Pradesh, Bihar, Gujarat, Kerala, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, and Uttar Pradesh) and **six union territories** (Andaman and Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Daman and Diu, Lakshadweep, and National Capital Territory of Delhi) have notified their respective Real Estate (Regulation and Development) Rules, 2017. The central Real Estate (Regulation and Development) Act (RERA) was notified on May 1, 2016, and has come into effect nationwide from May 1, 2017. States were asked to prepare and notify respective rules in tandem with the Act, so it could be effectively implemented.

CRISIL Research compared the notified state specific rules with the central Act, and found that many states have either diluted a few crucial aspects of the Act, or given insufficient emphasis to its provisions in their rules.

### Summary of CRISIL Research's assessment of state-specific notified rules

States	Definition of on-going projects	Penalties for non-compliance	Payment schedule	Norms for escrow withdrawal	Clause for structural defects
Andhra Pradesh	Diluted	Diluted	In line	In line	In line
Bihar	In line	Diluted	Lacks clarity	In line	In line
Gujarat	Lacks clarity	Lacks clarity	Lacks clarity	Lacks clarity	Lacks clarity
Kerala	Diluted	In line	In line	Diluted	Diluted
Madhya Pradesh	In line	Diluted	Lacks clarity	Lacks clarity	Lacks clarity
Maharashtra	In line	Diluted	With conditions	In line	In line
Odisha	In line	Diluted	Lacks clarity	In line	In line
Rajasthan	In line	Diluted	In line	In line	Lacks clarity
Uttar Pradesh	Diluted	Diluted	Lacks clarity	In line	Lacks clarity
Andaman and Nicobar Islands			In line		
Chandigarh			In line		
Dadra and Nagar Haveli			In line		
Daman and Diu			In line		
Lakshadweep			In line		
National Capital Territory of Delhi			In line		

Major points of disconnect:

- **Definition of ongoing projects:** RERA 2016 includes projects that are ongoing on the date of commencement of the Act (i.e., May 1, 2017), and for which the completion certificate has not been issued. However, Andhra Pradesh, Kerala and Uttar Pradesh have altered this definition in their notified rules.
- **Penalties for non-compliance with the Act:** RERA 2016 recommends imprisonment for a term which may extend up to three years, or fine which may extend up to 10% of the estimated cost of the real estate project, or both, in case of non-compliance with the Act. However, most states have added a clause of compounding of offence to avoid imprisonment.
- **Payment schedule and liability in case of structural defects:** According to the central legislation, the model sale agreement is required to specify 10% advance payment, or charge an application fee from buyers, while entering into a written agreement for sale. In addition, in case of any structural defects arising within five years of handing over the possession of project to buyers, developers will be liable to rectify such defects without further charge. However, there is no clarity on these clauses in most states' RERA notifications.

## State wise RERA implementation



State	RERA notified on	CRISIL Research's comments
Andhra Pradesh	27 March 2017	<p><b>* Definition of ongoing projects: Diluted</b>            Includes ongoing projects with conditions: excludes projects where roads, open spaces, amenities and services have been handed over to the local authority in layout projects, or where all slabs are laid in housing projects, or where all developmental works have been completed and sale/lease deeds of 50% of the apartments/houses/plots have been executed, or where development works have been completed and application has been filed to the competent authority for issue of completion or occupancy certificate.</p> <p><b>*Penalties for non-compliance: Diluted</b>            Compounding of offence clause included to avoid imprisonment; 10% of project cost as penalty.</p> <p><b>*Payment schedule: In line</b>            10% advance payment, or an application fee from buyers while entering into a written agreement for sale.</p> <p><b>*Norms for escrow withdrawal: In line</b>            70% of the amount realised by developers to be deposited in a separate account; withdrawal in proportion to the percentage of project completed.</p> <p><b>*Clause for structural defects: In line</b>            Time frame – defects arising within five years from possession; developers to rectify such defects without further charge within thirty days.</p>
Bihar	27 April 2017	<p><b>* Definition of ongoing projects: In line</b>            Includes projects that are ongoing on the date of commencement of the Act, and for which the completion certificate has not been issued.</p> <p><b>*Penalties for non-compliance: Diluted</b>            Compounding of offence clause included to avoid imprisonment; 10% of project cost as penalty.</p> <p><b>*Payment schedule: Lacks clarity in the notified rules</b></p> <p><b>*Norms for escrow withdrawal: In line</b>            70% of the amount realised by developers to be deposited in a separate account; withdrawal in proportion to the percentage of project completed.</p> <p><b>*Clause for structural defects: In line</b>            Time frame -within five years from possession; developers to rectify such defects without further charge within thirty days.</p>

Gujarat	29 October 2016	<p><b>* Definition of on-going projects: Not mentioned in the notified rules</b></p> <p><b>*Penalties for non-compliance: Not mentioned in the notified rules</b></p> <p><b>*Payment schedule: Not mentioned in the notified rules</b></p> <p><b>*Norms for escrow withdrawal: Not mentioned in the notified rules</b></p> <p><b>*Clause for structural defects: Not mentioned in the notified rules</b></p>
Kerala	3 February 2016	<p><b>* Definition of ongoing projects: Diluted</b> Includes ongoing projects with conditions: Excludes all on-going projects where the promoter has received all requisite approvals/permits for the development of the real estate project prior to commencement of the Act.</p> <p><b>*Penalties for non-compliance: In line</b> Imprisonment for a term which may extend up to three years, or with fine which may extend up to 10% of the estimated cost of the real estate project, or both.</p> <p><b>*Payment schedule: In line</b> 10% advance payment, or an application fee from buyers while entering into a written agreement for sale.</p> <p><b>*Norms for escrow withdrawal: Diluted</b> 70% (or less, as notified by the government) of the amount realised by developers to be deposited in a separate account; no clarity on withdrawal mechanism.</p> <p><b>*Clause for structural defects: Diluted</b> Time frame - Within five years from possession; developers to rectify such defects without further charge within thirty days.</p>
Madhya Pradesh	22 October 2016	<p><b>* Definition of ongoing projects: In line</b> Includes projects that are ongoing on the date of commencement of the Act, and for which the completion certificate has not been issued.</p> <p><b>*Penalties for non-compliance: Diluted</b> Compounding of offence clause included to avoid imprisonment; 10% of project cost as penalty.</p> <p><b>*Payment schedule: Not mentioned in the notified rules</b></p> <p><b>*Norms for escrow withdrawal: No clarity in the notified rules</b></p> <p><b>*Clause for structural defects: Not mentioned in the notified rules</b></p>

<p>Maharashtra</p>	<p>20 April 2017</p>	<p><b>* Definition of on-going projects: In line</b> Includes projects that are ongoing on the date of commencement of the Act, and for which completion certificate has not been issued.</p> <p><b>*Penalties for non-compliance: Diluted</b> Does not mention imprisonment penalties; no clarity on monetary fines/penalties as percentage of total project cost.</p> <p><b>*Payment schedule: In line, but with conditions</b> 10% advance payment or an application fee from buyers while entering into a written agreement for sale; model agreement mandates buyers to pay up to 30% of total consideration on execution of agreement, and additionally, up to 15% of total consideration on completion of plinth work. Remaining payment to be as per clauses mentioned in the model sale agreement.</p> <p><b>*Norms for escrow withdrawal: In line</b> 70% of the amount realised by developers to be deposited in a separate account; withdrawal in proportion to the percentage of project completed.</p> <p><b>*Clause for structural defects: In line</b> Time frame - Within five years from possession; developers to rectify such defects without further charge</p>
<p>Odisha</p>	<p>25 February 2017</p>	<p><b>* Definition of on-going projects: In line</b> Includes projects that are ongoing on the date of commencement of the Act and for which the completion certificate has not been issued</p> <p><b>*Penalties for non-compliance: Diluted</b> Compounding of offence clause included to avoid imprisonment; 10% of project cost as penalty.</p> <p><b>*Payment schedule: No clarity in the notified rules</b></p> <p><b>*Norms for escrow withdrawal: In line</b> 70% of the amount realised by developers to be deposited in a separate account; withdrawal in proportion to the percentage of project completed.</p> <p><b>*Clause for structural defects: In line</b> Time frame: Within five years from possession; developers to rectify such defects without further charge within thirty days</p>

Rajasthan	1 May 2017	<p><b>* Definition of on-going projects: In line</b> Includes projects that are ongoing on the date of commencement of the Act, and for which the completion certificate has not been issued</p> <p><b>*Penalties for non-compliance: Diluted</b> Compounding of offence clause included to avoid imprisonment; 10% of project cost as penalty.</p> <p><b>*Payment schedule: In line</b> 10% advance payment, or an application fee from buyers while entering into a written agreement for sale.</p> <p><b>*Norms for escrow withdrawal: In line</b> 70% of the amount realised by developers to be deposited in a separate account; withdrawal in proportion to the percentage of project completed.</p> <p><b>*Clause for structural defects: No clarity on number of years</b> Time frame: No clarity on number of years from possession; developers to rectify such defects without further charge</p>
Uttar Pradesh	27 October 2016	<p><b>* Definition of ongoing projects: Diluted</b> Includes ongoing projects with conditions: excludes projects where: - services have been handed over to the local authority for maintenance - where common areas and facilities have been handed over to the association or resident's welfare association for maintenance - all development works have been completed and sale/ lease deeds of 60% of apartments/plots/houses have been executed; and - where all development works have been completed and application has been filed with the competent authority for issue of completion certificate.</p> <p><b>*Penalties for non-compliance: Diluted</b> Compounding of offence clause included to avoid imprisonment; 10% of project cost as penalty</p> <p><b>*Payment schedule: No clarity in the notified rules</b></p> <p><b>*Norms for escrow withdrawal: In line</b> 70% of the amount realised by developers to be deposited in a separate account; but no clarity on withdrawal mechanism</p> <p><b>*Clause for structural defects: No clarity in the notified rules</b></p>
Andaman and Nicobar Islands	31 October 2016	In line with central Act
Chandigarh	31 October 2016	In line with central Act
Dadra and Nagar Haveli	31 October 2016	In line with central Act



Daman and Diu	31 October 2016	In line with central Act
Lakshadweep	31 October 2016	In line with central Act
National Capital Territory of Delhi	24 November 2016	In line with central Act

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