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**An Article on**

REAL ESTATE LAW:

BY

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**Real Estate and Property Law** covers an extensive legal area, which is regulated by federal and state statutes, as well as common law. Many aspects of this area overlap with land development. The terms “real estate”, “realty” and “real property” are generally used interchangeably, although many people associate “real estate” more closely with the structures or buildings and the land. However, real property/real estate encompasses more than just the obviously tangible aspects. It comprises land and that which is attached to or belongs with the land, such as the immovable structures like buildings, houses, trees, bushes and minerals permanently affixed to the land, But it also consists of the interests, benefits and rights that are legally considered attached to the real property, which can include certain rights to the air above the land, to drill in the ground beneath it, rights to live on the property for a specific timeframe or to acquire the real property in the future, and more.

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Infrastructure and real estate are the two most critical sectors in any developing economy.

A well-developed infrastructural set-up propels the overall development of a country. It also facilitates a steady inflow of private and foreign investments, and thereby augments the capital base available for the growth of key sectors in an economy, as well as its own growth, in a sustained manner. A robust real estate sector, comprising sub-segments such as housing, retail, hospitality and commercial projects, is fundamental to the growth of an economy and helps several sectors develop significantly through the multiplier effect.

However, both these sectors need a substantial amount of continuous capital for their development. Currently, India’s real estate sector is the second-largest employer in the country after agriculture and is slated to grow at a steady pace over the next decade. At the same time, the infrastructure sector, which includes segments such as energy, transport, water and sanitation, communication, and social and commercial infrastructure, is the focus area for key policymakers, banks and corporates to formulate and implement regulations. This is expected to ensure the time-bound creation of world class infrastructure in the country. India’s real estate industry has witnessed a paradigm shift from traditional finance to an era of structured finance, private equity and public offering.

Given the importance of these two sectors in the country, and the paucity of public funds available to stimulate their growth, it is imperative that additional channels of financing are put in place.

Real estate investment trusts (REITs) and infrastructure investment trusts (InvITs) are investment vehicles that can be used to attract private investment in the infrastructure and real estate sectors, and also relieve the burden on formal banking institutions. Regulations governing REITs and InvITs were introduced in India as recently as 2014.

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The (RERDA) short for Real Estate (Regulation and Development) Act, 2016 is one of the biggest improvisation in the sector of real estate. **Real Estate Regulatory Authority (RERA) Bill** was introduced by the Indian National Congress government in 2013 and after 6 years of debating, it was brought into effect on 1st May 2016.

The rules under the act were to be formulated by the Central and State government within 6 months of the notification coming out, and each state had its own regulator along with a set of rules for the functioning of the regulator. RERA seeks to promote the interests of the consumers as well as builders and boost investments into real estate in an environment of trust and confidence. The transparency of the act ensures a steep drop in illicit activities and customer harassment, and an inclusion of agents in the provision now makes them accountable for their actions.

Making it mandatory for all commercial and residential real estate projects to register with the Real Estate Regulatory Authority India, now disclosure of names of promoters, project layout, the status of statutory approvals, the draft of builder-buyer agreements, land status, names and addresses of real estate agents etc is obligatory. This information has to be regularly updated on the website of the regulator as well.

Non-registration of any real estate project can also lead to punishment upto 3 years or a fine upto 10% of the cost of the project. Various provisions of the act help in protecting the uninformed customers, such as:

* The registration of the regulator can be revoked in case of any misleading or false representation, advertisements etc from his side.
* Non delivery as per the terms of the contract would lead to a complete refund of the cost borne by the customer along with the pre decided interest rate or pay monthly interest on each delay month to the buyer, if they refuse to take the sum altogether.
* The prescribed regulator will now have to give security as to quality of construction and provision of services to the customer for 5 years from the date of possession and upon any such reporting of error, the developer will have to rectify it within 30 days of complaint.
* Before actually getting a registered sale agreement signed, the buyer cannot ask for more than 10% of the property’s cost as advanced payment.

All of these mandates increase the productivity and value of the real estate industry, and set a benchmark for growth and development. The act lays down that each state establish its own Appellate Tribunal that liberates the honest man and disciplines the swindlers.

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However, the fly in the ointment is that project delays due to delays in obtaining completion certificates/essential connections from government agencies such as sanctioning authorities are uncatered for in the act.

Nonetheless, the act definitely makes this sector seem more organised and hopeful of immense prosperity and pellucidity.

The REIT market has evolved substantially in several countries and these investment vehicles have gained immensely in terms of their market capitalisation. A primary condition for the growth of these markets, as demonstrated by the experience of different countries, is their ability to customise regulations governing these investment vehicles in conformity with domestic

market conditions.

In the near future, we expect REITs to increase the depth of the Indian property market through a sound regulatory framework which ensures transparency and high governance standards, and promotes regular monitoring of their performance.

The market for REITs and InvITs is relatively nascent in India. However, with various enabling factors such as the growth of the economy and the middle class, and a concomitant need for housing and infrastructure, we are positive that the market for these investment vehicles will witness considerable growth in the near future.

The practice area of real estate and property law deals with a variety of related issues, including the following: rights and interests in real estate and real property; sales, purchases and other transfers of real estate and real property; legal aspects of rental property and landlord issues; tenants’, renters’ and homeowners’ rights; title to real property; settlement of claims against property rights; property development; zoning and land use; related agriculture issues; home loans and foreclosures; and various other relevant topics. This is a complex practice area, further complicated by the significant inconsistency in the laws throughout different cities and states. Real estate attorneys are versed in many different activities, from the mundane drafting of deeds and filing of liens, to handling boundary and zoning disputes and even assisting families in court when threatened with foreclosure.

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## Know Your Rights!

* [Can Foreigners Buy Real Estate in the United States?](https://www.hg.org/article.asp?id=31572)

As the real estate market in the U.S. has made a strong indication of recovery, some outside of the United States have begun to look again at American real estate investments as a possibility. This leads some to wonder, though, whether it is even possible for a foreigner to buy real estate in the U.S.? If so, are there any special laws to be aware of or taxes that must be paid?

* [Dealing with Nuisance Neighbors](https://www.hg.org/article.asp?id=31089)

We have all had the situation at some point: a neighbor that cares for nobody but themselves. Stereo blasting late at night, dogs barking or attacking others, construction that causes damage to our property...the list goes on. So what do you do in those instances when reasoning with the neighbor just is not working?

* [Failing to Disclose Environmental Defects in Property Sales](https://www.hg.org/article.asp?id=31064)

Have you purchased a piece of land only to discover after the sale that there was pollution on the property? Are you thinking of selling a house and wondering how much you need to disclose? Understanding the laws related to environmental disclosures can mean the difference between a costly lawsuit and a smooth transaction.

* [How Do I Throw Someone Out of My House?](https://www.hg.org/article.asp?id=31766)

Ever had the house guest you just cannot get to leave? Maybe someone you thought you could share a relationship with and things did not work out, or a friend or family member who just cramps your lifestyle, eats your food, and does not contribute to the bills? Whatever the case may be, getting someone out who has overstayed their welcome can sometime be a very difficult task. So, how do you throw someone out of your house?

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* [Understanding Eminent Domain](https://www.hg.org/article.asp?id=31079)

Eminent domain, or the process by which the government takes property from private owners, can be a confusing process for many. The most common use of eminent domain is to obtain title to property used for roads and other public facilities. But, this is changing. Cases have held that eminent domain can also be used for the purpose of economic development. So how does eminent domain work?

* [What is the Statute of Frauds?](https://www.hg.org/article.asp?id=31312)

When dealing with a contract dispute, particularly in the case of an oral contract, one may hear the term “statute of frauds” used. This does not refer to the commission of an actual fraud, but rather, whether the contract had to be in writing or not. So what is the statute of frauds and when does it apply?

* [What To Do After a Tornado or Other Natural Disaster](https://www.hg.org/article.asp?id=31612)

When any sort of natural disaster hits, it can be terrifying. Once it has passed, though, victims are often left wondering what they need to do to pick up the pieces. Is there anything they need to do in filing their insurance claims to make sure that they will get paid soon and as much as possible? This is especially important for those whose houses are destroyed and who have lost everything.

## Related to Real Estate Law

* [Will Lawmakers Change New York's Scaffolding Law This Year?](https://www.hg.org/article.asp?id=45009)

Given that New York has one of the toughest scaffolding laws in the country, it is no surprise that many business associations, property owners, and large contractors are constantly trying to get this law amended or eliminated, particularly since it has the potential to impact their bottom line. This year, however, they might get their wish as lawmakers recently introduced legislation that will, if passed, change this century-old law.

* [Real Estate Financing for California Real Estate Investors](https://www.hg.org/article.asp?id=44948)

The financial commitments required in real estate investing can vary in size and scope, from purchasing a handful of shares in a real estate investment trust (REIT) or real estate syndicate to purchasing a house or office building.

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* [What to Know when the Government Sues to Take Your Property](https://www.hg.org/article.asp?id=44945)

When the property owner of real estate has been sued by the federal or state government and his or her land is at stake it is crucial to know what to do and what knowledge is useful. In order for the landowner to proceed, he or she may need to hire an expert such as a lawyer to ensure his or her rights are protected throughout the process.

* [Ten of the most dangerous jobs for Workers Compensation](https://www.hg.org/article.asp?id=44866)

Are you one of the many Americans working at high risk job on a daily basis for the sake of a paycheck? For a lot of you, avoiding imminent danger is just part of the job. Some of the most fundamentally important careers to our society are among the most dangerous.

* [How to Work with a Construction Expert Witness in Complex Litigation](https://www.hg.org/article.asp?id=44843)

Expert witness selection is important for cases with complex litigation. For this, it is often imperative to hire someone specialized in the field of study or subject in the courtroom, and this may provide a better chance at success when testimony assists the plaintiff in seeking compensation.

* [Effect of Statute of Frauds on Real Estate Disputes](https://www.hg.org/article.asp?id=44838)

When a statue of frauds issue occurs, this means that a violation has transpired with a contract in writing, singed by involved parties bound to the contract with a real estate dispute. The status of frauds protects these agreements and each person is bound to the clauses, terms and conditions set in the contract.

* [New York City Employer and Landlord Alert: Preventing Against Gender Identity Discrimination](https://www.hg.org/article.asp?id=44738)

Experts estimate that there are more than 25,000 transgender and gender non-conforming people that reside in New York City. As a result, it is very important that New York City employers and landlords become familiar with their obligations when addressing the gender identity of their employees or tenants. The failure to do so can result in hefty fines and discrimination claims brought against offenders.

* [Expert Witness Testimony in Interpretation of Building Code Cases](https://www.hg.org/article.asp?id=44703)

Building codes may require some interpretation for cases where someone has been injured or killed. This means an expert witness in building codes is hired usually to assist with testimony and an understanding about this bit of evidence for the claim.

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* [All Real Estate and Property Law Articles](https://www.hg.org/law-articles-real-estate.asp)

Articles written by attorneys and experts worldwide discussing legal aspects related to Real Estate including: construction law, eminent domain, foreclosure, homeowners association, land use and zoning, landlord and tenant law, property law, property management.

## Property and Real Estate Law - US

* [ABA - Real Property, Trust and Estate Law Section](http://www.americanbar.org/groups/real_property_trust_estate.html)

The Real Property, Trust and Estate Law Section is a leading national forum for lawyers, and currently has over 30,000 members. The Real Property Division focuses on legal aspects of property use, ownership, development, transfer, regulation, financing, taxation and disposal. The Trust and Estate Division focuses on all aspects of trusts, estate planning, employee benefits, insurance, and probate and trust litigation.

* [DOJ - Fair Housing Act](http://www.justice.gov/crt/about/hce/housing_coverage.php)

The primary purpose of the Fair Housing Law of 1968 is to protect the dwelling seeker from seller or landlord discrimination. It does this by protecting the buyer's or renter's right to discriminate.

* [DOJ - Guide to State Real Estate Laws and Regulations](http://www.justice.gov/atr/public/real_estate/states.htm)

Ten states forbid buyers’ brokers from rebating a portion of the sales commission to the consumer. Eight states require consumers to buy more services from sellers’ brokers than they may want, with no option to waive the extra items. HUD recently clarified its rule that rebates are permissible under RESPA as long as they are reported on the HUD-1 form.

* [HUD - Foreclosure Avoidance Counseling](http://www.hud.gov/offices/hsg/sfh/hcc/fc/)

HUD-approved housing counseling agencies are available to provide you with the information and assistance you need to avoid foreclosure. As part of President Obama's comprehensive Homeowner Affordability and Stability Plan (HASP), you may be eligible for a special Making Home Affordable loan modification or refinance, to reduce your monthly payments and help you keep your home.

* [National Association of Realtors - Legislative / Regulatory Issues](http://www.realtor.org/law_and_policy)

NAR has experienced phenomenal growth in the past few years to reach a new milestone: over one million members. There has never been a better time to enjoy all that NAR offers to enhance your success as a REALTOR®.

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* [Real Estate Law - Wikipedia](http://en.wikipedia.org/wiki/Real_estate)

Real estate is a legal term (in some jurisdictions, such as the United Kingdom, Canada, Australia, USA and The Bahamas) that encompasses land along with improvements to the land, such as buildings, fences, wells and other site improvements that are fixed in location—immovable.[1] Real estate law is the body of regulations and legal codes which pertain to such matters under a particular jurisdiction and include things such as commercial and residential real property transactions. Real estate is often considered synonymous with real property (sometimes called realty), in contrast with personal property (sometimes called chattel or personalty under chattel law or personal property law).

* [Real Estate Settlement Procedures Act (RESPA)](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/rmra/res/respa_hm)

HUD is requiring that loan originators provide borrowers with a standard Good Faith Estimate that clearly discloses key loan terms and closing costs and that closing agents provide borrowers with a new HUD-1 settlement statement.

[Real Estate Transactions Law](http://topics.law.cornell.edu/wex/Real_estate_transactions)

Real estate transactions are governed by a wide body of federal statutes and state statutory and common law. The requirements established by state law often differ significantly from one state to the next.

* [State Landlord and Tenant Law](http://www.landlord.com/legalmain.htm)

This website will help landlords understand and exercise their legal rights and gain knowledge about their state’s Landlord/Tenant Laws.

* [US Department of Housing and Urban Development (HUD)](http://portal.hud.gov/portal/page/portal/HUD)

HUD's mission is to increase homeownership, support community development and increase access to affordable housing free from discrimination. To fulfill this mission, HUD will embrace high standards of ethics, management and accountability and forge new partnerships--particularly with faith-based and community organizations--that leverage resources and improve HUD's ability to be effective on the community level.

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