Briefing on key issues relating to "Real Estate (Regulation & Development) Bill 2011"

FICCI welcomes the revised version of the Real Estate (Regulation & Development) Bill, 2011 formulated by the central Government to bring in transparency and efficiency in real estate sector.

The activities in the sector are intertwined with various individuals and agencies. Other stakeholders like consumers, financial institutions, local sanction authorities, etc are integral part for the success of a particular project. Therefore, the Act should cover all of them equally and equitably and should not isolate the developer and penalize.

Macro Issues:

- The bill in its current Avatar has defined the roles, responsibilities and penalties of developer/promoter and consumer but not that of **other important stakeholders** in a real estate project like:

  a. Government agencies/authorities at centre, state and municipal levels
  b. Financing agencies
  c. Brokers

  For E.g. if a developer is responsible for timely completion of the project and giving possession to the allottee, the Government agencies responsible for providing clearances in time should also have equivalent exposure.

- The bill must follow the **"Principle of Disclosure"** instead of "**Principle of Approval**" while registering a project. A set of complete guidelines for disclosure be formulated which the developer would have to comply with for registering with the authority. The information disclosed should be vetted by an authorized agency.

- The bill must consider **force majeure circumstances**. The bill must protect the developer for delays in completion due to factors beyond his control. When plans are approved, it is supposed to be final. No criminal or financial penalty should accrue to the developer if he has executed the project as per approved plan.

- The Bill does not address the **issues of commercial and other projects**. For example, there is a clear need of processes to be laid down around the calculation of rentals, common area maintenance charges, car parking charges etc.

- The bill states that a developer will not be allowed to collect any advance from the customer before he gets all approvals. This provision will result in developer indulging into a practice of collecting cash from the customers which encourage **flow of black money**. Therefore, pre-sales to institutional investors should be permitted as they follow strict due diligence process in comparison to general customers

- It is suggested that a provision of **exit route for the 'Promoter'** is included in the bill. In case the project is not possible or feasible to be implemented, as a whole or part; then the Promoter/Developer should have the legal way to get out of the project. Detailed provisions in this direction need to be made.

- The Bill should have provision for **reducing the number of approvals required** by real estate developers and should also prescribe the timelines for getting the approvals. This is the biggest bottleneck faced by the promoters which has a direct bearing on the supply of projects. If approvals are granted within the stipulated time by the authorities, it will enable timely delivery of projects.

- The bill must **remove criminal charges like imprisonment** for the developer. Only financial penalties be imposed for offences of the developer.

Real estate is a complex subject and each state has different and some conflicting regulations. For states to implement these regulations, it will require a lot of research into the provisions of this regulation vis-à-vis similar and conflicting provisions in state laws.

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