



CA Certificate & Designated Bank Account Operations

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Real Estate (Regulation and Development) Act, 2016

WIRC-REFRESHER COURSE ON MAHARERA PRACTICE
& PROFESSIONAL OPPORTUNITIES (VIRTUAL)

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STATUTORY PROVISIONS

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- ❖ **Sec 2(v)-Estimated cost of real estate project** means the total cost involved in developing the real estate project and includes the land cost, taxes, cess, development & other charges.
- ❖ **Second Proviso to Section 4(2)(I)D – Withdrawal from Separate Account after Certificate from Architect, Engineer, Chartered Accountant.**

Provided further that the amounts from the separate account shall be withdrawn by the promoter after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project:

- ❖ **Section 60 – Contravention of Sec 4, Promoter liable for penalty up to 5% of Estimated Cost of Project.**

60. If any promoter provides false information or contravenes the provisions of section 4, he shall be liable to a penalty which may extend up to five per cent. of the estimated cost of the real estate project, as determined by the Authority.

STATUTORY PROVISIONS

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- ❖ **Rule 4** – Disclosure by promoter of ongoing real estate projects

the estimated balance cost to complete the project. The promoter shall submit a certificate from a practicing Chartered Accountant, certifying the balance amount of receivables from the apartments / flats / premises sold or allotted and in respect of which agreement have been executed and estimated amount of receivables in respect of unsold apartments / flats / premises calculated at the prevailing ASR rate on the date of certificate.

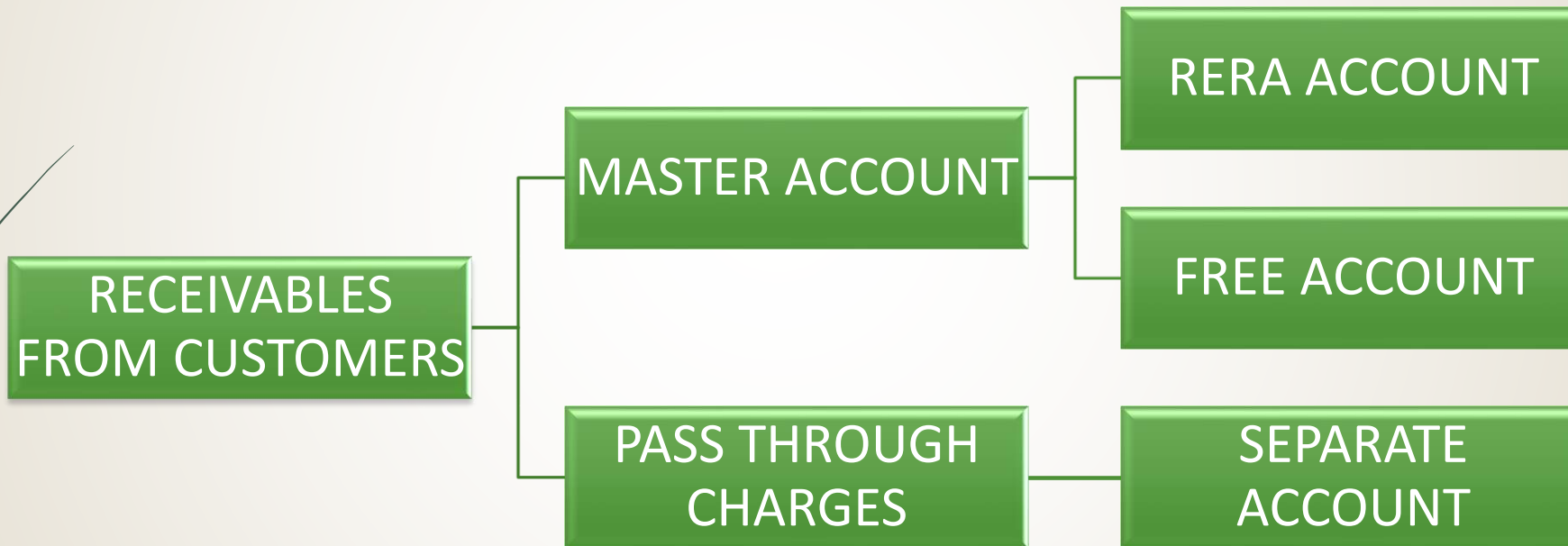
- ❖ **Rule 5** – Prescribes **Withdrawal Aspects of Amounts** deposited in separate account
- ❖ **Regulation 3** – Prescribes the **format of the certificates** to be issued by the project Architect, project Engineer, Chartered Accountant for getting release of money from Separate Bank Account.
- ❖ **Regulation 3B**- For plotted development projects, in Forms 1, 2, 3 & 4 **only the relevant sections shall be applicable.**

ARCHITECT
Sec 2 (h)
FORM 1 & 4

ENGINEER
Sec 2 (u)
FORM 2

CHARTERED ACCOUNTANT
Sec 2 (1) (b) of CA Act, **1949**
FORM 3 & 5

OPENING OF BANK ACCOUNT [70:30] RULE



MAXIMUM AMT WITHDRAWAL

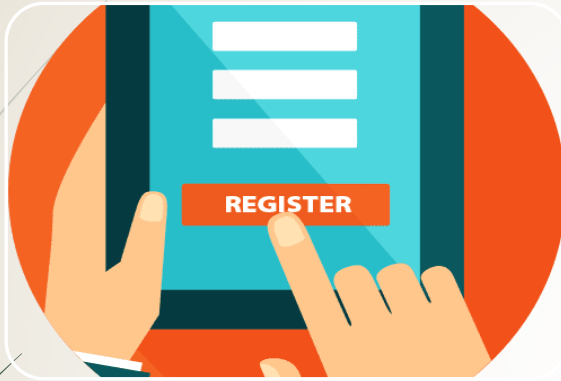
Sr. No.	Particulars	Estimated Cost (₹ in crores)	Amount incurred (₹ in crores)
1	Land Cost	1000	1000
2	Construction Cost	600	200
3	<i>Other Cost and Marketing Cost</i>	200	100
4	Total Cost	1800	1300
5	Amount realized in Designated bank account		1600

Maximum Amount that can be
withdrawn from Designated Bank
Account- ₹ 1200



FREQUENCY OF FORM 3

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**AT THE TIME
OF
REGISTRATION**

**PREVIOUS
LIMIT FULLY
UTILISED**

**INTERVAL OF
90 DAYS**

Form 3 – Chartered Accountant's Certificate (For Registration of a Project and Subsequent Withdrawal of Money) Reg-3



SR. NO.	PARTICULARS [NOTE NO. 1 TO 71]	ESTIMATE AMOUNT (₹)	<u>INCURRED</u> AMOUNT (₹)
1. i.	Land Cost Amendment		
ii.	Development Cost / Cost of Construction Amendment		
2.	Total Cost of the Project [Estimated and Actual] Amendment		
3.	% completion of Construction Work (as per Project Architect's Certificate) Amendment		
3.	Proportion of the Cost incurred on Land Cost and Construction Cost to the Total Estimated Cost.		
4.	Amount which can be withdrawn from the Designated Account Total Estimated Cost * Proportion of cost incurred		
7.	Less: Amount withdrawn till date of this certificate as per the Books of Accounts and Bank Statement Designated Account Amendment		
6.	Net Amount which can be withdrawn from the Designated Bank Account under this Certificate		

Form 3 – Additional Information for Ongoing Projects



SR NO.		PARTICULARS [NOTE NO. 72 TO 85]	AREA	AMOUNT (₹)
1.		Estimated Balance Cost to Complete the Real Estate Project (Difference of Total Estimated Project cost less Cost incurred)		
2.		Balance amount of receivables from sold apartments as per Annexure A to this certificate (As certified by Chartered Accountant as verified from the records and books of Accounts)		
3.	i	Balance Unsold Area (to be certified by Management and to be verified by CA from the records and books of accounts)	Area to be mentioned	
	ii	Estimated amount of sales proceeds in respect of unsold apartments (calculated as per ASR multiplied to unsold area as on the date of certificate, to be calculated and certified by CA) as per Annexure A to this certificate		
4.		Estimated receivables of ongoing project [Sum of 2 + 3(ii)]		
5.		Amount to be deposited in Designated Account – 70% or 100%		% to be mentioned

Form 3 – Annexure A [For Ongoing & New Projects] [Note No. 86 to 107]

Sold Inventory

Sr. No.	Flat No.	Carpet Area (in sq. mtrs.)	Unit Consideration as per Agreement/Letter of Allotment	Received Amount	Balance Receivable



Unsold Inventory

Ready Reckoner Rate as on the date of Certificate of the Residential /commercial premises ₹ _____
per sq.mt.

Sr. No.	Flat No.	Carpet Area (in sq. mtrs.)	Unit Consideration as per ASR

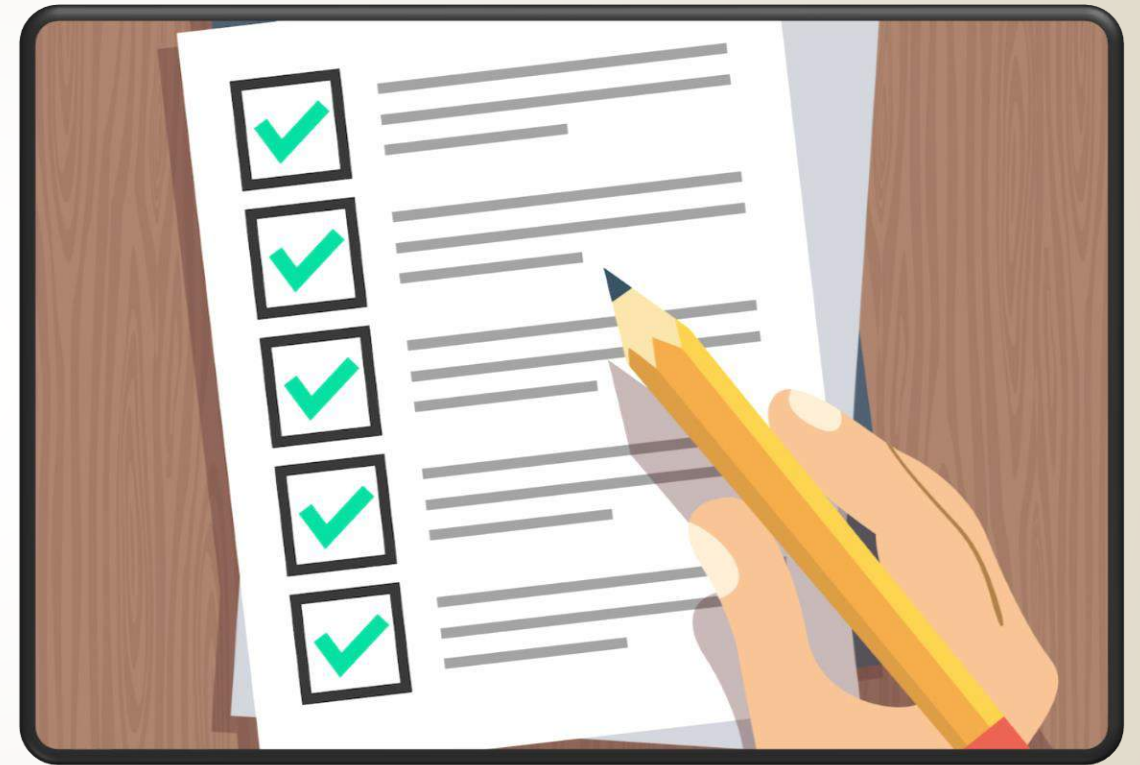
Form 3-Notes Forming Part of Certificate

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- In the absence of information about capitalisation of interest as part of cost of assets, the element of interest to be capitalised, if any, has not been considered in the project cost incurred though it is part of the total project cost incurred.
- As per Clarification on CA Certificates vide Circular No. 7/2017 dated 04th July 2017 it is stated that there is no end use restriction on the amount which is withdrawn from the separate account hence above certification is based on the inference drawn from the interpretation.
- There is no fixed deposit investment made from monies lying if any in the separate account as evident from the records produced before me.
- Inferences on which certificate is issued.
- Reclassification of particular fields of cost based on previous certificates

Form 3 Maharera as compared to other authorities

- ❖ Lacks Digitisation
- ❖ Bank A/c No. not mentioned
- ❖ Lacks Bank Account Directions
- ❖ No quantification of Penalty
- ❖ Failure to address change in bank account
- ❖ Lacks standardisation
- ❖ Can Form 3 & Form 5 CA be associates?



Working Papers

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- Letter of Engagement-Specify Nature & Purpose.
- Application filed for registration of project
- Designated Bank Account Details & Changes if any.
- Bank Balance Confirmation.
- No Lien Certificate from Branch where RERA A/c is maintained.
- Note of Assumptions made and relied on & how he has interpreted certain terms used in his certificate.
- Certificates from Engineer, Architect and CA for withdrawal of money based on % of completion of construction

Working Papers

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- Calculation regarding Borrowing Cost Allocated to the Project with regards to Accounting Standard 16.
- Management Representations
- Statement of customers, list of agreement of sales entered, advances received, balance receivables etc.
- Project funding related documents
- Taxation relating statements pertaining to claim as cost incurred.
- Cash Flow Statements
- Note relating to acceptance or rejection of evidences or any explanations relating to important terms used.

SOP for Revision in Cost

Certificates to be Submitted or not to Bank?

Certification Related Circulars

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Case Law:

The tribunal held that a responsible authority who is also a licensed surveyor is not expected to sign blindly when the project is incomplete. It also added that such factually incorrect endorsement calls for condemnation and action.

”

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Manoj Votavat Vs. Sea Princess Realty & Ors.

Appeal No. 00060000000159/160/161/162

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Case Law:

The funds of the project cannot be used for compensating the allottees namely to pay them **interest on account of delayed possession**. Promoters must pay it from their own resources and properties.

”

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Neha Padwal & Ors. Vs. M/s CCI Projects Pvt Ltd.

Complaint No. CC006000000192607