THE WEST BENGAL APARTMENT OWNERSHIP ACT, 1972 *(West Bengal Act XVI of 1972)*

What this law is for: This law lets someone own an individual apartment as their own property, one that can be passed on to heirs or sold/transferred, just like any other piece of real estate.

1. Name, Coverage, and Start Date This law is called the West Bengal Apartment Ownership Act, 1972. It applies across the whole state of West Bengal. The basic naming section took effect right away, but the rest of the law only kicks in for a particular area once the State Government formally announces it different areas can be brought under the law on different dates.

2. When the Law Applies This law only applies to a property if its owner (or all co-owners) formally agree to bring it under the Act by registering a document called a "Declaration." Also, the property must actually be used or meant to be used for residential purposes.

3. Key Definitions

- **Apartment**: A self-contained residential unit that has its own exit to a road or to a common area leading to a road, plus a share in the building's common areas.
- **Association of Apartment Owners**: The group formed by all the apartment owners, run according to the bye-laws.
- **Building**: Any building with four or more apartments.
- **Common areas and facilities**: Everything shared by all owners — the land, foundation, walls, roof, stairs, lifts, corridors, basements, gardens, parking, staff quarters, shared utilities (water, power, gas, sewage, etc.), and anything else needed to keep the building running.
- **Common expenses**: The costs of maintaining, repairing, or running those shared areas.
- **Common profits**: Any income earned from shared areas, after expenses are deducted.
- **Competent authority**: The Estate Manager under the West Bengal Housing Directorate.
- **Declaration**: The official document that brings a property under this law.
- **Limited common areas**: Shared spaces reserved for the use of only certain apartments (not all owners).

4. Apartments Can Be Owned, Sold, and Inherited Each owner fully owns and possesses their own apartment. Along with it, they own a share of the common areas — and both together count as regular immovable property that can be inherited or transferred. However, you can't split up or subdivide an apartment (or your share of common areas) for any reason.

5. Rules Around Shared (Common) Areas

- Every owner gets a fixed percentage share in the common areas, as stated in the Declaration.

- That percentage can only be changed if *all* owners agree and register an updated Declaration.
- Your share in the common areas is permanently tied to your apartment; you can't separate the two, even if a sale document forgets to mention it.
- No one can demand to "divide up" the common areas physically, unless the whole property exits this law.
- Everyone can use shared spaces as intended, without interfering with others' rights.
- Maintenance and repair of shared spaces must follow the law and the bye-laws.
- The Owners' Association (through its Manager or Board) has the permanent right to enter any apartment during reasonable hours to maintain, repair, or fix shared systems including emergency repairs to prevent damage.

6. Owners Must Follow the Rules Every owner must strictly follow the bye-laws and the conditions laid out in the Declaration. If they don't, the Board/Manager (or even another affected owner) can take legal action for damages or other remedies.

7. Things Owners Can't Do No owner may do anything that threatens the building's structural safety, lowers its value, damages easement rights, adds unauthorized structures, or digs an extra basement/cellar.

8. Loans/Mortgages Against the Property While the property is under this Act, no one can put an encumbrance (like a mortgage) on the *entire* property. Encumbrances can only be created against an individual owner's specific apartment and their share of common areas just like with any other separately owned property.

9. Sharing Profits and Costs Any income from common areas gets distributed among owners, and common expenses get charged to them both based on each owner's percentage share.

10. What the Declaration Must Include The Declaration (the registration document) must describe:

- The property itself
- The owner(s)' legal interest in it
- Any existing loans/mortgages on it
- Each apartment's location, size, room count, and access to common areas
- The common areas and facilities
- Any limited common areas and who they're reserved for
- The value of the property and each apartment, plus ownership percentages (including for voting purposes)
- Anything else required by the rules

The Declaration can be amended later, following prescribed procedures.

11. Opting Out of the Law All owners together can choose to withdraw their property from this Act. If they do, the property becomes jointly owned by all of them (based on their previous percentage shares), and any existing loans/mortgages transfer over in the same proportion.

12. Registration Requirements The Declaration, any changes to it, or a withdrawal from the Act must all be formally registered under the Registration Act, 1908. Even after withdrawing, owners can later choose to bring the property back under this Act.

13. Bye-laws (Internal Rules) Every property under this Act must be run according to bye-laws approved by the Competent Authority and the State Government. These bye-laws must cover:

- How the Owners' Association and its Board of Managers are formed, how many members serve, how they're elected/removed, and their powers
- How meetings are called and what counts as a quorum
- Electing a President to chair meetings
- Maintenance and repair of common areas
- How maintenance costs are collected from owners
- Any other administrative matters

14. Separate Tax Assessment Even though it's part of a larger building, each apartment (with its share of common areas) is treated as a separate property for municipal tax purposes.

15. Priority of Maintenance Charges If an owner owes maintenance fees, that debt becomes a charge on their apartment ranking above almost all other claims, except unpaid municipal taxes.

16. Buyer's Responsibility for Old Dues If you buy an apartment, you become jointly responsible (along with the seller) for any maintenance dues the seller hadn't paid before the sale.

17. Rule-Making Power The State Government can create additional rules to implement this Act.

18. Relationship with Other Property Laws The Transfer of Property Act, 1882 still applies to apartments and their common-area shares, as long as it doesn't conflict with this Act.