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GOVERNMENT OF KERALA

The Kerala Buildings
 (Lease and Rent Control)
 Act, 1965
 (2 of 1965)

(As on 1-3-1984)

Price: Rs. 2.50

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(Lease and Rent Control)

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(No. 2 of 1965)

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THE KERALA BUILDINGS (LEASE AND RENT CONTROL) ACT, 1965

(No. 2 of 1965)

An Act to regulate the leasing of buildings and to control the rent of buildings in the State of Kerala.

¹[~~Preamble~~].—WHEREAS it is expedient to regulate the leasing of buildings and to control the rent of such buildings in the State of Kerala;

BE ~~it~~ enacted as follows:—]

1. ~~Short title, extent, application and commencement~~.—(1) This Act may be called the Kerala Buildings (Lease and Rent Control) Act, 1965.

(2) It extends to the whole of the State of Kerala.

(3) It applies to the areas mentioned in the Schedule and the Government may, by notification in the Gazette, apply all or any of the provisions of this Act to any other area in the State with effect from such date as may be specified in the notification, and may, by notification, cancel or modify such notification or withdraw the application of all or any of the provisions of this Act from any area mentioned in the schedule:

Provided that no such notification shall be issued unless it is supported by a resolution passed by the local authority or authorities if any, of the areas affected by the notification.

(4) It shall be deemed to have come into force on the first day of April, 1965.

2. ~~Definitions~~.—In this Act, unless the context otherwise requires,—

(1) “building” means any building or hut or part of a building or hut, let or to be let separately for residential or non-residential purposes and includes,—

(a) the garden, grounds, wells, tanks and structures, if any, appurtenant to such building, hut, or part of such building or hut, and let or to be let along with such building or hut;

(b) any furniture supplied ²[xxxxxx] by the landlord for use in such building or hut or part of a building or hut, but does not include a room in a hotel or boarding house,

(1) Substituted by Act 8 of 1968.

(2) Omitted by Act 7 of 1966.

(e) any fittings or machinery belonging to the landlord, affixed or installed in such building, or part of such building and intended to be used by the tenant for or in connection with the purpose for which such building or part of such building is let or to be let;

(2) "Accommodation Controller" means any person appointed to perform the functions of an Accommodation Controller under this Act;

(3) "landlord" includes the person who is receiving or is entitled to receive the rent of a building, whether on his own account or on behalf of another or on behalf of himself and others or as an agent, trustee, executor, administrator, receiver or guardian or who is entitled to receive the rent or be entitled to receive the rent, if the building were let to a tenant.

Explanation.—A tenant who sub-lets shall be deemed to be a landlord within the meaning of this Act in relation to the sub-tenant;

(4) "prescribed" means prescribed by rules made under this Act;

(5) "Rent Control Court" means the court constituted under section 3;

(6) "tenant" means any person by whom or on whose behalf rent is payable for a building and includes—

(i) the heir or heirs of a deceased tenant, and

(ii) a person continuing in possession after the termination of a tenancy in his favour. But does not include a Kudikidappukaran defined in the Kerala Land Reforms Act, 1963 (Kerala Act 1 of 1963), or a person placed in occupation of a building by its tenant, or a person to whom the collection of rents or fees in a public market, stand or slaughterhouse or of rents for shops has been framed out or leased by a Municipal Council, Municipal Corporation, Township Committee or Panchayat;

(7) "unconscionable rent" means any rent which is more than double the maximum of the fair rent that could be fixed for a building under section 5.

3. *Constitution of Rent Control Courts and appointment of Accommodation Controllers.*—(1) The Government may, by notification in the Gazette, appoint a person who is or is qualified to be appointed, a Munsiff to be the Rent Control Court for such local areas as may be specified therein.

(1) Inserted by Act 7 of 1966.

(2) Substituted by Act 7 of 1966

(2) The Government may, by notification in the Gazette, appoint any officer not below the rank of a Tahsildar to be the Accommodation Controller for any area to which this Act applies.

(3) The Accommodation Controller shall exercise his powers and perform his functions subject to such general directions as the Government may issue.

4. *Notice of vacancy.*—(1) (a) Every landlord may within fifteen days before completion and shall, within fifteen days after the construction or re-construction of a building intended to be let out or after a building becomes vacant by his ceasing to occupy it, or by the termination of a tenancy, or by release from requisition by the Government or any other competent authority, give notice of the availability or vacancy in writing to the Accommodation Controller. Every tenant shall within fifteen days of his vacating a building occupied by him give notice of the same in writing to the Accommodation Controller:

Provided that this sub-section shall not apply to a building in respect of which the landlord has obtained an order for possession on any of the grounds specified in sub-section (3), clause (iv) of sub-section (4) and sub-sections (7) and (8) of section 11.

(2) Every notice given under clause (a) shall contain such particulars as may be prescribed.

(2) If the tenant of a building puts another person in occupation thereof and does not re-occupy it within a period of three months, then, on the expiry of such period, the tenancy shall be deemed to have terminated and it shall be the duty of the tenant, and also of the landlord, if he is aware of such termination, to give notice thereof in writing to the Accommodation Controller within fifteen days of such termination:

Provided that the tenant may, before the expiry of three months, apply to the Accommodation Controller to re-occupy the building within a period of six months and if such permission is granted, this sub-section shall have effect as if for the period of three months specified therein, a period of six months were substituted.

Explanation.—This sub-section shall not apply where the building has been sub-let by a tenant entitled to do so, after giving due notice to the Accommodation Controller under sub-section (1) and in conformity with the provisions of this section.

(3) If within fifteen days of the receipt by the Accommodation Controller of a notice under sub-section (1) or sub-section (2), the Accommodation Controller does not intimate to the landlord in writing that the building is required for the purpose of the State or Central Government or of any local authority or of any public institution or for the occupation of any officer of such Government, or local authority

or for the occupation of such class of non-officials as may be prescribed. Having regard to the importance of their service to society, the landlord shall be at liberty to let the building to any tenant or to occupy it himself.

(4) The landlord shall not let the building to a tenant or occupy it himself, before the expiry of the period of fifteen days specified in sub-section (3) unless in the meantime he has received intimation that the building is not required for the purposes or for occupation by any of the persons specified in that sub-section.

(5) If the building is required for the purposes of the State or Central Government or a local authority or any public institution or for the occupation of any officer of such Government or local authority, or for occupation by any of the persons specified in sub-section (3), the landlord shall deliver possession of the building to the Accommodation Controller and the Government, the local authority or public institution or officer or person shall be deemed to be the tenant of the landlord, with retrospective effect from the date on which the Accommodation Controller received notice under sub-section (1) or sub-section (2), the terms of the tenancy being such as may be agreed upon between the landlord and the tenant and in default of an agreement, as may be determined under section 5:

Provided that the rent payable shall be the fair rent, if any fixed for the building under the provisions of this Act, and, if no fair rent has been so fixed, such fair rent as may be determined in accordance with the provisions of this Act:

Provided further that a building used as a residential building, shall not be used as a non-residential building or *vice versa* unless the Accommodation Controller after hearing the landlord grants permission under sub-section (1) of section 17:

Provided also that no structural alterations shall be made in the building, unless the consent of the landlord is also obtained therefor.

(6) (a) Where a landlord has two or more residential buildings in the same city, town or village and they have not been let by him, the landlord may choose any one of such buildings for his own occupation and shall give notice to the Accommodation Controller specifying the building so chosen by him and every other building not so chosen.

(b) When giving notice as aforesaid, the landlord shall also specify therein—

(i) whether any building other than the one chosen by him under clause (a) has been continuously in the occupation of any member of his family or of any dependant of the landlord; or

(ii) whether he requires such building for the occupation of any member of his family.

(c) In the case referred to in sub-clause (i) of clause (b), the Accommodation Controller may, if he is satisfied that the occupation of the building by any member of the family, or of any dependant of the landlord is *bona fide*, make an order permitting the landlord to allow such member or dependant to continue to occupy the building and if the Accommodation Controller is not so satisfied, he shall make an order refusing such permission.

(d) In the case referred to in sub-clause (ii) of clause (b), the Accommodation Controller may, if he is satisfied that the building is required by any member of the family of the landlord *bona fide* for such occupation, make an order permitting the landlord to allow such member to occupy the building; and if the Accommodation Controller is not so satisfied he shall make an order refusing such permission.

(e) Any landlord who is aggrieved by any order passed by the Accommodation Controller under clause (c) or clause (d) may, within fifteen days from the date of the receipt of such order, prefer an appeal in writing to the District Collector within whose jurisdiction the building in respect of which the order appealed against is situate and he shall pass such orders on the appeal as he may think fit.

(f) Every notice given by the landlord under clause (a) shall be so far as it relates to any building other than the one chosen by him for his own occupation, be deemed to be a notice under sub-section (1) and the provisions of sub-section (3) shall thereupon apply in respect of such buildings:

Provided that in respect of any building referred to in clause (a) whereof an order under clause (c) or clause (d) or clause (e) is made, the provisions of sub-section (3) shall apply as if notice had been given by the landlord under sub-section (1) immediately after the lapse of a period of fifteen days from the date of receipt by the landlord of the order passed by the Accommodation Controller or, if an appeal has been preferred to the District Collector against that order within that period, as if notice had been given as aforesaid by the landlord on the date of the order passed on the appeal.

(g) The Accommodation Controller shall allot the building vested in him under sub-section (3) or sub-section (6) to persons mentioned in sub-section (3) according to the rules and priorities prescribed by the Government.

(7) (a) Any officer empowered by the Government in this behalf may summarily dispossess—

(i) any landlord, tenant or other person occupying any building in contravention of the provisions of this section or any landlord who fails to deliver possession of any building under sub-section (3);

- (ii) any officer, person, local authority or public institution continuing to occupy, or failing to deliver possession of, any building after the termination of his or its licence to occupy such building,

and take possession of the building including any portion thereof which may have been sub-let :

Provided that in cases where any landlord has been refused permission for the occupation of a building under clause (c) or clause (d) of sub-section (6), not less than one week's notice to show cause to the contrary shall be given before action is taken under this sub-section.

(b) If free access to the building is not afforded to the officer empowered under clause (a) he may, between 6 a.m. and 6 p.m. after giving reasonable warning and facility to withdraw to any women not appearing in public according to the customs of the country, remove or open any lock or bolt or break open any door or do any other act necessary for effecting such dispossession.

(c) Any landlord, tenant or other person or any officer, local authority public institution, liable to be summarily dispossessed under clause (a) shall pay to the Government—

(i) the fair rent payable for the building under the provisions of this Act for the period of his or its occupation or possession thereof as described in that clause; and

(ii) the expenses, if any, incurred by the Government in effecting such summary dispossession, as determined by them, which determination shall be final.

(8) Nothing contained in this section shall apply—

(a) to any building of which the rent does not, or where the rent has not been fixed, the fair rent would not, when fixed, exceed fifteen rupees per mensem; or

(b) to any building or buildings owned by any company, association or firm, whether incorporated or not and *bona fide* intended solely for the occupation of its officers, servants or agents and situated in the same city, town or village.

5. Determination of fair rent.—(1) The Rent Control Court shall, on application of the tenant or landlord of a building, fix the fair rent for such building after holding such enquiry as it thinks fit.

(2) In fixing the fair rent the Court shall take into consideration the property tax or house tax fixed for the building at the time of letting in the property tax register or house tax register of the local authority within whose area the building is situated.

Provided that in the case of—

(x) any residential building, or

(ii) any non-residential building, excepting a building ¹[to which fittings have been affixed or in which machinery have been installed and such fittings or machinery have been excluded] from valuation for the purpose of fixing the property tax or house tax by a local authority,

¹[the fair rent fixed may in proper cases be lower than, but shall in no case exceed by more than fifteen per cent, the monthly rent on the basis of which the property tax or house tax for the building, prefixed two years immediately before the date of the application, was fixed or if the building was not assessed to property tax or house tax before the said period of two years the monthly rent on the basis of which the property tax or house tax prevailing immediately before the date of the application was fixed.]

(3) If there is no property tax or house tax fixed for the building or if it is not based on a rental basis or if the building is situated in an area which is not a City, Municipality, Panchayat or in any other local authority, the fair rent shall be fixed after taking into consideration the prevailing rates of rent in the locality for similar accommodation in similar circumstances during the twelve months preceding the letting.

(4) In case the allotment of the building is made by the Accommodation Controller, he may, provisionally fix the fair rent for the building and the Rent Control Court may, on application by an aggrieved party modify the fair rent so fixed.

(5) The Rent Control Court shall intimate the fair rent of the building fixed to the local authority within whose jurisdiction the building, in respect of which the fair rent has been fixed, is situated. The local authority on receipt of such intimation shall make a record of the fair rent fixed in the register kept for the purpose and shall make the register available for inspection in such places and in such manner as may be prescribed. The register so prepared shall be kept up-to-date so as to contain full particulars in regard to the rent fixed in respect of a building by the Rent Control Court and also the subsequent variation thereto made by the said Court.

6. Increase in fair rent in what cases admissible.—(1) When the fair rent of a building has been fixed under this Act no further increase in such fair rent shall be permissible except in cases where some necessary addition, improvement or alteration has been carried out at the landlord's expense :

¹ Substituted by Act 7 of 1966.

Provided that the fair rent as increased under this sub-section shall not exceed the fair rent payable under this Act for a similar building in the same locality with such additional improvement or alteration and it shall not be chargeable until such addition, improvement or alteration has been completed:

Provided further that any dispute between the landlord and the tenant in regard to any increase claimed under this sub-section shall be decided by the Rent Control Court.

(2) Where, after the fair rent of a building has been fixed under this Act, there is a decrease or diminution in the accommodation or amenities provided, the tenant may claim a reduction in the fair rent as so fixed, and any dispute between the landlord and the tenant in regard to any reduction so claimed shall be decided by the Rent Control Court.

7. *Increase of rent in certain cases.*—(1) Where the amount of the taxes and cases payable by the landlord in respect of any building to local authority has increased after fixation of the fair rent, such increase shall be recoverable by the landlord from the tenant:

Provided that no such increase exceeding five per cent of the original fair rent shall be so recovered from the tenant.

(9) Any dispute between the landlord and the tenant in regard to any increase claimed under sub-section (1), shall be decided by the Rent Control Court.

8. *Landlord not to claim or receive anything in excess of fair rent or agreed rent.*—(1) Where the Rent Control Court has determined the fair rent of a building—

(a) the landlord shall not claim, receive or stipulate for the payment of (i) any premium or other like sum in addition to such fair rent, or (ii) save as provided in section 6, or section 7 anything in excess of such fair rent:

Provided that the landlord may receive, or stipulate for the payment of an amount not exceeding one month's rent by way of advance;

(b) save as provided in clause (a), any premium or other like sum or any rent paid in addition to, or in excess of such fair rent, whether before or after the commencement of this Act, in consideration of the grant, continuance or renewal of the tenancy of the building after such commencement, shall be refunded by the landlord to the person by whom it was paid or at the option of such person, shall be otherwise adjusted by the landlord:

Provided that where before the determination of the fair rent, rent has been paid in excess thereof, the refund or adjustment shall be limited to the amount paid in excess for a period of three years immediately before the institution of any proceedings for such determination.

(2) Where the fair rent of a building has not been determined under section 5—

(a) notwithstanding anything contained in any contract, the rent payable for the building in case it is a building falling under clause (i) or clause (ii) of the proviso to sub-section (2) of section 5 shall be, where the property tax or house tax has been fixed by the local authority the maximum rent that may be fixed by the Rent Control Court as provided for in sub-section (2) of section 5, or the agreed rent whichever is less, and in cases where no property tax or house tax has been fixed for the building or where it has been fixed not on a rental basis the agreed rent;

(b) the landlord shall not claim, receive or stipulate for the payment of, any premium or other like sum in addition to the rent payable under clause (a) for a building falling under clause (i) or clause (ii) of the proviso to sub-section (2) of section 5, and the agreed rent in the case of any other building:

Provided that the landlord may receive, or stipulate for the payment of an amount not exceeding one month's rent, by way of advance;

(c) save as provided in clause (b) any sum paid in excess of the rent payable under clause (a) in the case of a building falling under clause (i) or clause (ii) of the proviso to sub-section (2) of section 5 and the agreed rent in the case of any other building in consideration of the grant, continuance or renewal of the tenancy of the building after the commencement of this Act, shall be refunded by the landlord to the person by whom it was paid or at the option of such person, shall be otherwise adjusted by the landlord.

(a) Any stipulation in contravention of sub-section (1) or sub-section (2) shall be null and void.

9. *Right of tenant paying rent or advance to receipt.*—(1) Every tenant who makes a payment on account of rent or advance shall be entitled to obtain a receipt in the prescribed form for the amount paid, duly signed by the landlord or his authorised agent.

(2) Where a landlord refuses to accept or evades the receipt of any rent lawfully payable to him by a tenant in respect of any building, the tenant may either permit the rent to the landlord by money order after deducting the money order commission and continue to remit any rent which may subsequently become due in respect of the building in the same manner until the landlord signifies by a written notice to the tenant his willingness to accept the rent or may by notice in writing,

require the landlord to specify within ten days from the date of receipt of the notice by him, a bank into which the rent may be deposited by the tenant to the credit of the landlord.

Provided that such bank, if specified as aforesaid, shall be one situated in the city, town or village in which the building is situated or if there is no such bank in such city, town or village, within three miles of the limits thereof.

Explanation.—It shall be open to the landlord to specify, from time to time, by a written notice to the tenant and subject to the proviso aforesaid, a bank different from the one already specified by him under this sub-section.

(3) If the landlord specified a bank as aforesaid, the tenant shall deposit the rent in the bank and shall continue to deposit in it any rent which may subsequently become due in respect of the building.

(4) If the landlord does not specify a bank as aforesaid, the tenant shall remit the rent to the landlord by money order, after deducting the money order commission and continue to remit any rent which may subsequently become due in respect of the building in the same manner until the landlord signifies by a written notice to the tenant his willingness to accept the rent or specifies a bank in which the rent shall be deposited in accordance with the provisions of sub-section (2).

10. *Right of tenant to deposit rent in certain cases.*—(1) Where the address of the landlord or his authorised agent is not known to the tenant, he may deposit the rent lawfully payable to the landlord in respect of the building together with such fee as may be prescribed for the service of the notice referred to in sub-section (2) before such authority and in such manner as may be prescribed, and continue to deposit any rent which may subsequently become due in respect of the building together with the fee prescribed, as aforesaid, before the same authority and in the same manner until the address of the landlord or his authorised agent becomes known to the tenant.

(2) The rent so deposited may, subject to such conditions as may be imposed by the Rent Control Court, be withdrawn by the landlord or his authorised agent, on application to the Court.

(3) Where any *bona fide* doubt or dispute arises as to the person who is entitled to receive the rent for any building, the tenant may deposit such rent before such authority and in such manner as may be prescribed and shall report to the Rent Control Court the circumstances under which such deposit was made by him, and may continue to deposit any rent which may subsequently become due in respect of the building before the same authority and in the same manner until the

doubt is removed or the dispute is settled by the decision of a competent Court or by a settlement between the parties or until the Rent Control Court makes an order under clause (b) of sub-section (4), as the case may be.

(4) (a) The Rent Control Court to whom a report is made under sub-section (3) shall, if satisfied that a *bona fide* doubt or dispute exists in the matter, direct that pending removal of the doubt or settlement of the dispute as aforesaid, the deposit be held by the authority concerned.

(b) If the Rent Control Court is not so satisfied, it shall forthwith order payment of the amount deposited to the landlord.

(5) (a) Where the Rent Control Court passes an order under clause (a) of sub-section (4), any amount or amounts deposited under sub-section (3) may be withdrawn only by the person who is declared by a competent Court to be entitled thereto, or in case the doubt or dispute is removed by a settlement between the parties, only by the person who is held by the Rent Control Court to be entitled to the amount or amounts in accordance with such settlement.

(b) An order passed by the Rent Control Court under clause (b) of sub-section (4) shall not debar the aggrieved party from establishing his claim in any competent Court.

11. *Ejection of tenants.*—(1) Notwithstanding anything to the contrary contained in any other law or contract a tenant shall not be evicted, whether in execution of a decree or otherwise, except in accordance with the provisions of this Act:

Provided that nothing contained in this section shall apply to a tenant whose landlord is the State Government or the Central Government or other public authority notified under this Act:

Provided further that where the tenant denies the title of the landlord or claims right of permanent tenancy, the Rent Control Court shall decide whether the denial or claim is *bona fide* and if it records a finding to that effect, the landlord shall be entitled to sue for eviction of the tenant in a Civil Court and such Court may pass a decree for eviction on any of the grounds mentioned in the section, notwithstanding that the court finds that such denial does not involve forfeiture of the lease or that the claim is unfounded.

(2) (a) A landlord who seeks to evict his tenant shall apply to the Rent Control Court for a direction in that behalf.

(b) If the Rent Control Court, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied that the tenant has not paid or tendered the rent due by him in respect of the building within fifteen days after the expiry of the

time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement by the last day of the month next following that for which the rent is payable, it shall make an order directing the tenant to put the landlord in possession of the building, and if it is not satisfied it shall make an order rejecting the application thereof by him :

Provided that an application under this sub-section shall be made only if the landlord has sent a registered notice to the tenant intimating the default and the tenant has failed to pay or tender the rent together with interest at six per cent per annum and postal charges incurred in sending the notice within fifteen days of the receipt of the notice or of the refusal thereof.

¹[(c) The order of the Rent Control Court directing the tenant to put the landlord in possession of the building shall not be executed before the expiry of one month from the date of such order or such further period as the Rent Control Court may in its discretion allow; and if the tenant deposits the arrears of rent with interest and cost of proceedings within the said period of one month or such further period, as the case may be, it shall vacate that order.]

(3) A landlord may apply to the Rent Control Court for an order directing the tenant to put the landlord in possession of the building if he *bona fide* needs the building for his own occupation or for the occupation by any member of his family dependent on him:

Provided that the Rent Control Court shall not give any such direction if the landlord has another building of his own in his possession in the same city, town or village except where the Rent Control Court is satisfied that for special reasons, in any particular case it will be just and proper to do so.

Provided further that the Rent Control Court shall not give any direction to a tenant to put the landlord in possession, if such tenant is depending for his livelihood mainly or the income derived from any trade or business carried on in such building and there is no other suitable building available in the locality for such person to carry on such trade or business:

Provided further that no landlord whose right to recover possession arises under an instrument of transfer *inter vivos* shall be entitled to apply to be put in possession until the expiry of one year from the date of the instrument :

Provided further that if a landlord after obtaining an order to be put in possession transfers his rights in respect of the building to another person, the transferee shall not be entitled to be put in possession

(1) Substituted by Act 7 of 1966

unless he proves that he *bona fide* needs the building for his own occupation or for the occupation by any member of his family dependent on him.

(4) A landlord may apply to the Rent Control Court for an order directing the tenant to put the landlord in possession of the building—

(i) if the tenant after the commencement of this Act, with the consent of the landlord, transfers his right under the lease to another person or lets the entire building or any portion thereof if the lease does not confer on him any right to do so. ²[xxx]

³ [Provided that an application under this clause shall not be made for the first time in respect of one and the same tenancy if the landlord has sent a registered notice to the tenant intimating the contravention of the said condition of the lease and the tenant has failed to terminate the transfer or the sub-lease, as the case may be, within thirty days of the receipt of the notice or the refusal thereof.]

¹[Explanation.—Where on the partition of a joint family or of the property of co-tenants, or on the dissolution of a firm, the right of the joint family or the co-tenants or the firm in the property or a lease is vested in a member of the joint family, co-tenant or a partner, as the case may be, whether by act of parties or otherwise, no transfer by such member of his right under the lease shall be deemed to have taken place within the meaning of this clause; or]

(ii) if the tenant uses the building in such a manner as to destroy or reduce its value or utility materially and permanently;

(iii) if the tenant already has in his possession a building or subsequently acquires possession of or puts up a building, reasonably sufficient for his requirements in the same city, town or village; or

(iv) if the building is in such a condition that it needs reconstruction and if the landlord requires *bona fide* to reconstruct the same and if he satisfies the Court that he has the plan and license, if any required, and the ability to rebuild and if the proposal is not made as a pretext for eviction :

Provided that the landlord who evicts a tenant and does not reconstruct completely the building within a time which may be fixed or extended by the Rent Control Court, shall on a petition before the Court be liable to a fine of rupees five hundred, if it is proved that he has willfully neglected to reconstruct completely the building within such time :

(1) Inserted by Act 7 of 1966

(2) Omitted by Act 7 of 1966

(3) Inserted by Act 2 of 1973