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Law on Land No. 31/2024/QH15

Legal Update | April 2024

This Update highlights the following key points:

- ▶ Agreement on receiving land use rights to implement commercial housing projects
- ▶ Cases subject to land auction or investor selection bidding
- ▶ Annual land rental payments
- ▶ Right to lease under land lease contracts
- ▶ Mechanism for land valuation and pricing
- ▶ Violation of Law on Land
- ▶ Dispute resolution mechanisms
- ▶ Land for multipurpose use

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On 18 January 2024, the National Assembly of Vietnam issued Law on Land No. 31/2024/QH15 (Law on Land 2024) which will take effect from 1 January 2025, with the exception of Article 190 and Article 248 which will take effect from 1 April 2024. Law on Land 2024 is expected to untie the knots that have caused difficulties for real estate project investors for many years.

Some key change points are presented and analyzed below.

- 1. New regulations on agreement on receiving residential land use rights to implement commercial housing projects**
 - ▶ Under Article 127.1.b of Law on Land 2024, investors are only allowed to agree on receiving residential land use rights to implement commercial housing projects. Compared to the earlier provision of Law on Land No. 45/2013/QH13 dated 29 November 2013, amended, supplemented 2018 (Law on Land 2013) with no limitation on the type of land that investors can receive to implement commercial housing projects, the new regulation serves to limit the situations in which businesses receive agricultural land use rights without implementing the project, or request to adjust the planning of projects using agricultural land to develop commercial housing projects.
- 2. Detailed regulations on cases subject to land auction or investor selection bidding**
 - ▶ Compared to previous provisions, Law on Land 2024 has enhanced the land auction and investor selection bidding mechanism to distribute land. Article 124, 125, 126 has specified cases of land allocation or leasing from the State which must be made through land auction or investor selection bidding process, and cases where land is not granted through an auction or investor selection bidding.
 - ▶ Auctions is used for land allocation or leasing from the State in the following cases:
 - ▶ Investment projects using land funds managed by State agencies and organizations
 - ▶ Allocation of residential land to individuals
 - ▶ Investor selection bidding is used for land allocation or leasing from the State in the following cases:
 - ▶ Investment projects to build an urban area with mixed service functions, synchronized technical and social infrastructure systems with housings in accordance with construction law for construction or urban renovation and gentrification; rural residential projects which the provincial People's Council decides the allocation or leasing of land through investor selection bidding
 - ▶ Investment projects which are subject to land recovery to implement socio-economic development projects for national and public benefit, and which are subject to investor selection bidding in accordance with the law of industry and region management
 - ▶ Furthermore, Law on Land 2024 also adds conditions for auctioning land use rights, which include having a detailed planning of 1/500 approved by a competent state agency for housing projects
- 3. New regulations on annual land rental payments**
 - ▶ Law on Land 2024 has added more cases of lease of land with annual rental payment in Article 120. Accordingly, lease of land with full one-off rental payment for the entire lease period is only applicable to three cases:
 - ▶ Use of land to implement projects for agriculture or forestry production, aquaculture, salt production

- ▶ Use of land in industrial parks, industrial clusters, high-tech parks, work accommodation for workers within industrial parks; use of public land for business purpose; use of commercial or service land for tourism and office spaces
- ▶ Use of land to construct social housing for rent
- ▶ Notably, Law on Land 2024 allows the conversion of land rental payment from one time to annual payment in Article 30.2. The paid land rent is then deducted from the annual land rent payable

4. New regulations on the right to lease under land lease contracts

- ▶ Law on Land 2024 has introduced the new concept of the right to lease under land lease contracts. Under Article 3.37, the right to lease under land lease contracts is the right of land users on leased land with annual payment term. The transferee of such a right to lease will inherit the rights and obligations of the land user.
- ▶ Economic organizations with foreign capital being leased land with annual payment term by the State is entitled to transfer land-attached assets and the right to lease under land lease contracts (Article 41.2.d) when the following conditions have been duly satisfied: (i) Assets attached to leased land are legally formed and registered in accordance with law; (ii) The construction is completed in accordance with the detailed construction zoning and the investment project which were approved (if any), except for cases that must comply with effective court judgments or decisions, decisions on coercive judgment enforcement, or conclusions of competent state agencies on inspection, examination; and (iii) Compensation, assistance and resettlement amounts have been paid in advance but have not been fully deducted from the land rent payable.

5. New regulations on the mechanism for land valuation and pricing

- ▶ One of the most notable changes in the Law on Land 2024 is the abolishment of the land price framework. Specifically, Article 158.1.a of the Law on Land 2024 places emphasis on determining land price based on market principles.
- ▶ Under Article 159, the provincial People's Committees shall develop land price list and seek approval from the provincial People's Council; the price list will be first published and applied from 1 January 2026, and adjusted from 1 January of the following year. The price list will be updated annually instead of every five years as currently stipulated by Article 114 of the Law on Land 2013 to further align with market fluctuations.
- ▶ Additionally, the new Law also outlines four methods and the corresponding specific criteria to evaluate land prices, which include comparison, income, adjustment coefficients, and surplus value to determine specific land prices.

6. New regulations on violations of Law on Land

- ▶ Under Article 58.3.c of Law on Land 2013, one of the prerequisites to rent or be allocated land or permitted to change the land use purpose to implement investment projects is that investors have not committed any breach of Law on Land if they are using land to implement another investment project.

- ▶ Article 122.2.c of the Law on Land 2024 has opened up opportunities for enterprises who previously violated Law on Land but already complied with decisions or judgments issued by the competent authorities. Investors satisfying the above condition could still rent or be allocated land or permitted to change the land use purpose to implement investment projects.

7. New regulations on dispute resolution mechanisms

- ▶ Article 235.3 and Article 236.5 Law on Land 2024 have added commercial mediation and commercial arbitration as two new dispute resolutions mechanisms to address disputes arising from commercial activities related to land.

8. New regulation on land for multipurpose use

- ▶ Article 218 of the Law on Land 2024 has introduced land for multipurpose use in order to enhance land utilization efficiency, including agricultural land used in combination with purposes of commerce, services, livestock breeding, medicinal plant cultivation, or residential land used in combination with agricultural, commercial, or services purposes.
- ▶ Requirements to use land for multipurpose include: (i) Preparation and submission of a land use plan to the competent authority for approval; (ii) Retention of land type and necessary conditions to return to primary land use purpose; and (iii) Fulfillment of financial obligations.

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