

#[Status of Effect]=In Force

#[Organ of Promulgation]=The Standing Committee of the National People's Congress

#[Date of Promulgation]=19940705

#[Effective Date]=19950101

LAW OF THE PEOPLE'S REPUBLIC OF CHINA ON ADMINISTRATION OF THE URBAN REAL ESTATE

[Note]=(Adopted at the Eighth Meeting of the Standing Committee of the Eighth National People's Congress on July 5, 1994, promulgated by Order No.29 of the President of the People's Republic of China on July 5, 1994, and effective as of January 1, 1995)

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Chapter I General Provisions

Article 1 This Law is formulated in order to strengthen administration of the urban real estate, maintain the order of real estate market, protect the legitimate rights and interests of real estate obligees and promote the healthy development of real estate business.

Article 2 Obtaining the land-use right for development of real estate, engaging in development of real estate and transaction of real estate, and exercising administration of real estate in the State-owned land within a planned urban district in the People's Republic of China (hereinafter referred to as the State-owned land) shall comply with this Law.

"Houses" as used in this Law means buildings and structures such as houses on the land.

"Development of real estate" as used in this Law means acts of building infrastructure and houses on the State-owned land, the land-use right for which has been obtained in accordance with this Law.

"Transaction of real estate" as used in this Law includes transfer of real estate, mortgage of real estate and lease of houses.

Article 3 The State shall practise a compensatory and terminable system for the use of State-owned land in accordance with the law, however, allocation of the land-use right by the State under this Law shall be excepted.

Article 4 The State shall, based on the social and economic development, support the development of construction of residential houses so as to gradually improve the housing conditions of the residents.

Article 5 Obligees of real estate shall abide by the laws, administrative rules and regulations and pay taxes according to law. The legitimate rights and interests of the obligees of real estate shall be protected by the law and shall not be infringed by any units or individuals.

Article 6 The department of construction administration and the department of land administration under the State Council shall, in accordance with the division of functions and powers prescribed by the State Council, attend to their own duties, act in close coordination and manage the work concerning real estate of the whole country.

Institutional structures, and functions and powers of the departments of housing administration and land administration under the people's governments at or above the county level shall be determined by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government.

Chapter II Land Used for Development of Real Estate

Section 1 Granting of the Land-use Right

Article 7 Granting of the land-use right refers to acts that the State grants land users the right to use the State-owned land(hereinafter referred to as the land-use right) for a certain number of years and the users shall pay the State a granting fee for the land-use right.

Article 8 The land-use right for the collective-owned land within a planned urban district may be granted with payment only after it is requisitioned in accordance with the law and turned into State-owned land.

Article 9 Granting of the land-use right must conform to the overall planning for land utilization, urban planning and the annual plan for land to be used for construction.

Article 10 Where the local people's governments at or above the county level grant land-use right for development of real estate, they must, based on the quota set by the people's governments at or above the provincial level, draw up plans for the total area for annual granting of the land-use right, which shall, according to the provisions of the State Council, be reported to the State Council or the provincial people's government for approval.

Article 11 Granting of the land-use right shall be carried out by the people's governments of the cities or counties in a planned and step-by-step way. With regard to each lot granted, plans for its purposes, term of use, and other conditions shall be worked out by the departments of land administration under the people's governments of the cities and counties in conjunction with the competent departments of urban planning, construction and housing administration. Such plans shall, according to the provisions of the State Council, be implemented by the departments of land administration under the people's governments of the cities or counties after their submission to and approval by the people's governments with due authority for approval.

Limits of authority as provided in the preceding paragraph for the people's governments and their departments concerned of the counties of the municipalities directly under the Central Government shall be prescribed by the people's governments of the municipalities directly under the Central Government.

Article 12 The land-use right may be granted in mode of auction, bidding or agreement between the two parties.

For Land used for commercial, tourism, recreation and luxury housing purposes, where conditions permit, the mode of auction or bidding shall be adopted; where conditions do not permit and it is impossible to adopt the mode of auction or bidding, the mode of agreement between the two parties may be adopted.

Fees for granting the land-use right in the mode of agreement between the two parties shall not be lower than the lowest price as determined in accordance with the provisions of the State.

Article 13 The maximum term for the granting of the land-use right shall be prescribed by the State Council.

Article 14 Granting of the land-use right shall be conducted through concluding a written granting contract.

The contract for granting the land-use right shall be concluded between the departments of land administration under the people's governments of the cities or counties and the land users.

Article 15 A land user must pay the fees for the granting of the land-use right as agreed upon in the granting contract. Where fees are not paid as agreed upon in the granting contract, the department of land administration shall have the power to rescind the contract and may demand compensation for the breach of contract.

Article 16 Where a land user has paid the fees for the granting of the land-use right as agreed upon in the granting contract, the department of land administration under the people's government of the city or county must provide the land granted as agreed upon in the granting contract; where the land granted is not provided as agreed upon in the granting contract, the land user shall have the right to cancel the contract, the fees for granting the land-use right shall be returned by the department of land administration, and the land user may demand compensation for the breach of contract.

Article 17 Where a land user who needs to modify the land-use purpose agreed upon in the contract for granting the land-use right, he must obtain the consent of the granting party and the competent administrative department for urban planning under the people's government of the city or county, conclude an agreement on the modification of the granting contract or conclude a new contract for granting the land-use right and the fees for granting the land-use right shall be accordingly readjusted.

Article 18 All the fees for granting the land-use right shall be turned over to the State Treasury and incorporated into the budget so as to be used for the construction of urban infrastructure and land development. Specific measures for the turning over and use of the fees for granting the land-use right shall be formulated by the State Council.

Article 19 Before the term for the use of land as agreed upon in the contract for granting the land-use right expires, the State is not to recover the land-use right obtained by the land user in accordance with the law. Under special circumstances as required by public interests, the State may, in accordance with legal procedures, recover the land-use right before the expiration of the term and shall make appropriate compensation based on the number of years of utilization and the actual development of the land by the land user.

Article 20 The land-use right shall be terminated with loss of the land.

Article 21 Where the term for the use of land as agreed upon in the contract for granting the land-use right expires, and the land user needs to continue the use of the land, the land user shall apply for an extension of the term no later than one year ahead of the expiration. Such an application shall be approved except for the land to be reclaimed as required by public interests. Upon approval of the extension, the land user shall enter into a new contract for the granting of the land-use right and pay fees for the granting in accordance with the relevant provisions.

Where the term for the use of land as agreed upon in the contract for granting the land-use right expires, and the land user does not apply for an extension of the term or his application therefor is not approved in accordance with the provisions in the preceding paragraph, the land-use right shall be reclaimed by the State without compensation.

Section 2 Allocation of the Land-use Right

Article 22 Allocation of the land-use right refers to acts that the people's government at or above the county level approves in accordance with the law to allocate the land to a land user after the latter

has paid compensation and expenses for resettlement, etc. for the allocated land, or gratuitously allocates the land-use right to the land user.

Where the land-use right is obtained by mode of allocation in accordance with the provisions of this Law, except as otherwise provided by the laws, administrative rules and regulations, there shall be no restriction with respect to the term of use.

Article 23 The land-use right for the following land used for construction may, if really necessary, be allocated upon approval by the people's government at or above the county level in accordance with the law:

1. land used for State organs or military purposes;
2. land used for urban infrastructure or public facilities;
3. land used for projects of energy, communications or water conservancy, etc. which are selectively supported by the State; and
4. land used for other purposes as provided by the laws, administrative rules and regulations.

Chapter III Development of Real Estate

Article 24 The development of real estate must be strictly subjected to the urban planning and carried out in a manner of overall planning, rational distribution, comprehensive development and construction with supporting facilities, in line with the principle of combining the economic, social and environmental benefits.

Article 25 Where the land-use right is obtained by mode of granting for development of real estate, the land must be developed according to the land-use purpose and the time limit for starting the development as agreed upon in the contract for granting the land-use right. Where one year has elapsed from the date for starting the development as agreed upon in the granting contract and the land is not yet developed, fees for idle land which is equivalent to twenty percent or less of the fees for granting the land-use right shall be collected; where two years have elapsed and the land is still not developed, the land-use right may be reclaimed without compensation, however, the circumstances wherein the delay of starting the development is caused by force majeure or acts of governments or their departments concerned or by the early preparations necessary for starting the development shall be excepted.

Article 26 The design and construction of a project of real estate development must conform to the relevant standards and norm of the State.

A completed project of real estate development may be turned over for use only after it is checked and accepted.

Article 27 The land-use right obtained pursuant to the law may, in accordance with the provisions of this Law and relevant laws, administrative rules and regulations, be valued and contributed as shares in developing and operating real estate in the form of joint ventures or contractual joint ventures.

Article 28 The State shall adopt preferential measures in aspects such as taxation to encourage and support real estate development enterprises to develop and construct residential houses.

Article 29 A real estate development enterprise is an enterprise engaged in real estate development and operation for purpose of profit. To establish a real estate development enterprise, the following conditions shall be met:

1. to have a name and institutional structure of its own;
2. to have fixed premises for business operation;
3. to have registered assets conforming to the provisions of the State Council;
4. to have sufficient professional and technical personnel; and
5. other conditions as provided by laws, administrative rules and regulations.

To establish a real estate development enterprise, an application for registration of establishment shall be made to the administrative department for industry and commerce. Where conditions specified in this Law are met, the administrative department for industry and commerce shall register the establishment and issue a business license. And registration shall not be made, where such conditions are not met.

To establish a limited liability company or a joint stock limited company engaged the real estate development and operation, relevant provisions of the Company Law shall also be complied with.

A real estate development enterprise shall, within one month after obtaining a business license, report its establishment for the record to the department designated by the local people's government at or above the county level in the place where the registration authority is located.

Article 30 The proportion of registered assets of a real estate development enterprise to its total investment shall comply with the relevant provisions of the State.

Where a real estate development enterprise develops real estate in phases, the amount of phased investment shall be commensurate with the scale of the project and the capital shall be put into construction of the project on schedule as agreed upon in the contract for granting the land-use right.

Chapter IV Transaction of Real Estate

Section 1 General Conditions

Article 31 In the transfer or mortgage of real estate, the ownership of the house and the land-use right to the house site shall be transferred or mortgaged therewith.

Article 32 The basic land price, standard land price and replacement prices for houses of various types shall be determined and made public regularly. Specific measures shall be formulated by the State Council.

Article 33 The State shall practise an appraisal system for real estate prices.

The appraisal of real estate prices shall adhere to the principles of justice, fairness and openness, and be carried out according to the technical standard and appraisal procedures prescribed by the State, based on the basic land price, standard land price and replacement prices for houses of various types and in the light of local market prices.

Article 34 The State shall practise a report system for real estate transaction prices.

An obligee of real estate shall, in transfer of his real estate, faithfully report the transaction price to the department designated by the local people's government at or above the county level and shall not make a concealed or false report.

Article 35 Where real estate is transferred or mortgaged, the party concerned shall register the ownership of the real estate pursuant to the provisions of Chapter V of this Law.

Section 2 Transfer of Real Estate

Article 36 Transfer of real estate refers to acts that an obligee of real estate transfers his real estate to another person through sale, donation or other legal means.

Article 37 No following real estate shall be transferred:

1. The land-use right is obtained by mode of granting, but not meeting conditions set forth in Article 38 of this Law;

2. The rights of real estate are sealed up by order of the judicial organ or decision of the administrative organ pursuant to law or limited by other ways;

3. The land-use right is reclaimed in accordance with the law;

4. For jointly-owned real estate, written consent of other co-owners has not been obtained;

5. The ownership is under dispute;
6. The real estate is not registered in accordance with the law and the certificate of the ownership is not obtained; or
7. Other circumstances under which transfer is prohibited by the provisions of laws, administrative rules and regulations.

Article 38 Where the land-use right is obtained by mode of granting, transfer of the real estate shall meet the following conditions:

1. to have paid all the fees for the granting of the land-use right as agreed upon in the granting contract and obtained the certificate of the land-use right; and
2. to have invested for development as agreed upon in the granting contract and have fulfilled twenty-five percent or more of the total investment for development in the case of housing projects, or have constituted conditions of land-use for industrial purposes or other construction projects in the case of developing tracts of land.

Where real estate is transferred with the construction of houses completed, the certificate of the house ownership shall be acquired.

Article 39 Where the land-use right is obtained by mode of allocation, the transfer of the real estate shall, according to the provisions of the State Council, be reported for examination and approval to the people's government that has the authority for approval. Upon approval of the transfer by the people's government with the authority for approval, the transferee shall go through the formalities for the granting of the land-use right and pay the fees therefor according to the relevant provisions of the State.

Where the land-use right is obtained by mode of allocation and the transfer of the real estate is reported for approval, and where the people's government that has the authority for approval decides in accordance with the provisions of the State Council that the formalities for granting the land-use right need not be gone through, the transferor shall, pursuant to the provisions of the State Council, turn over to the State the proceeds obtained from land in the transfer of the real estate or dispose of such proceeds otherwise.

Article 40 For the transfer of real estate, a written transfer contract shall be concluded in which the mode of obtaining the land-use right shall be stated.

Article 41 When real estate is transferred, the rights and obligations stated in the contract for granting the land-use right shall be transferred therewith.

Article 42 Where the land-use right is obtained by mode of granting and after the real estate is transferred, the term for the use of the land-use right shall be the remaining years after subtracting the years of use by the former land user from the original term agreed upon in the contract for granting the land-use right.

Article 43 Where the land-use right is obtained by mode of granting and after the real estate is transferred, the transferee modifies the land-use purpose agreed upon in the contract for granting the land-use right, the transferee must obtain consent from the transferor and the administrative department in charge of urban planning under the people's government of the relevant city or county, and conclude an agreement on the modification of the contract for granting the land-use right or enter into a new contract for granting the land-use right and readjust the fees for granting the land-use right accordingly.

Article 44 For the presale of commercial houses, the following conditions shall be met:

1. to have paid all the fees for the granting of the land-use right and obtained the certificate of the land-use right;
2. to have a permit for construction project planning;

3. the funds put into the development construction have reached twenty-five percent or more of the total investment for the construction project, computed on the basis of the commercial houses provided for presale, and the schedule of construction and the date of completion for delivery have been set; and

4. to make registration for presale at the administrative department in charge of house property under the people's government at or above the county level and to obtain the certificate of permission for the presale of commercial houses.

Pre-sellers of commercial houses shall, in accordance with the relevant provisions of the State, submit the presale contracts to the departments of housing administration and departments of land administration under the people's governments at or above the county level for registration and record.

The proceeds obtained from the presale of commercial houses must be used for the relevant construction projects.

Article 45 In the case of presale of commercial houses, matters concerning the transfer of incomplete pre-sold commercial houses that the buyers have purchased shall be prescribed by the State Council.

Section 3 Mortgage of Real Estate

Article 46 Mortgage of real estate refers to acts that a mortgagor provides the mortgagee security for the payment of a debt with his legal real estate in the manner that the possession of his real estate is not transferred. Where a debtor fails to pay his debt, the mortgagee shall have the right in accordance with the law to enjoy the priority in compensation to be paid with funds obtained from auction of the real estate mortgaged.

Article 47 A mortgage may be created on the ownership of a house obtained according to law together with the land-use right to the house site.

A mortgage may be created on the land-use right obtained by mode of granting.

Article 48 The mortgage of real estate shall be dealt with on the strength of the certificate of the land-use right and the certificate of ownership of the house.

Article 49 For the mortgage of real estate, the mortgagor and the mortgagee shall enter into a written mortgage contract.

Article 50 Where the land-use right on which a mortgage is created is obtained by mode of allocation, the mortgagee may enjoy the priority in compensation only after the amount equal to the fees for the granting of the land-use right is paid from the funds obtained from auction of the real estate done in accordance with the law.

Article 51 After a contract for the mortgage of the real estate is concluded, newly-built houses on the land shall not be regarded as the mortgaged asset. If the mortgaged real estate needs to be sold by auction, the newly-built houses on the land may be auctioned off according to law together with the mortgaged assets. However, the mortgagee shall not have the priority in compensation with respect to the funds obtained from auction of the newly-built houses.

Section 4 Lease of Houses

Article 52 Lease of houses refers to acts that an owner of a house in the capacity of a lessor leases his house to a lessee for use and the lessee pays rent for the house to the lessor.

Article 53 In the lease of a house, the lessor and the lessee shall conclude a written lease contract defining such matters as the term, purpose, and price of the lease, liability for repair, as well as other

rights and obligations of both parties, and shall register the lease with the department of housing administration for the record.

Article 54 Lease of residential houses shall be carried out in accordance with policies on lease formulated by the State and the people's government of the city where the houses are located. Where houses are leased for activities of production and business operation, the rent and other terms for the lease shall be determined by both parties through consultation.

Article 55 Where an owner of a house, for profit-making purposes, leases the house built on the State-owned land, the land-use right for which is obtained by mode of allocation, he shall turn over to the State the proceeds derived from the land and contained in the rent. The specific measures shall be prescribed by the State Council.

Section 5 Intermediary Service Agencies

Article 56 Intermediary service agencies for real estate include real estate consultant agencies, real estate price appraisal agencies and real estate broking agencies.

Article 57 Intermediary service agencies for real estate shall meet the following conditions:

1. to have names and institutional structures of their own;
2. to have fixed premises to provide services;
3. to have necessary property and funds;
4. to have sufficient professional personnel; and
5. other conditions provided by laws, administrative rules and regulations.

For establishing an intermediary service agency for real estate, an application for registration of the establishment shall be submitted to the administrative department for industry and commerce and a business licence shall be obtained, before it starts its business.

Article 58 The State shall practise a qualification authentication system for real estate price appraisers.

Chapter V Administration of Real Estate Ownership Registration

Article 59 The State shall practise a system of registration and certification for land-use right and ownership of houses.

Article 60 Where the land-use right is obtained by mode of granting or allocation, an application for registration shall be submitted to the department of land administration under the local people's government at or above the county level. Upon verification by the department of land administration under the local people's government at or above the county level, the certificate of the land-use right shall be issued by the people's government at the corresponding level.

Where a house is built on the land for real estate development obtained pursuant to the law, an application for registration shall, on the strength of the certificate of land-use right, be submitted to the department of housing administration under the local people's government at or above the county level. The department of housing administration under the local people's government at or above the county level shall issue the certificate of ownership of the house after verification.

Where transfer or modification of real estate is made, an application for registration of the modification of house property shall be submitted to the department of housing administration under the local people's government at or above the county level and on the strength of the certificate of the ownership of the house after modification, an application for registration of the modification of the land-use right shall be submitted to the department of land administration under the people's government at the corresponding level. Upon verification by the department of land administration under the people's government at the corresponding level, a new or a modified certificate of the land-use right shall be issued by the people's government at the corresponding level.

Where provided otherwise by laws, the provisions of relevant laws shall apply.

Article 61 Where real estate is mortgaged, registration of mortgage shall be made with the department designated by the local people's government at or above the county level.

Where the land-use right and the ownership of a house are obtained from disposal of mortgaged real estate, the change of ownership for the land-use right and the house shall be registered in accordance with the provisions of this Chapter.

Article 62 Where a department of the local people's government at or above the county level is in charge of both housing administration and land administration as determined by the people's government of the relevant province, autonomous region or municipality directly under the Central Government, such department may make and issue the uniform certificate of the ownership of real estate, in which the confirmation and modification of the ownership of houses and the land-use right of the house site shall be recorded respectively in accordance with the provisions of Article 60 of this Law.

Chapter VI Legal Liability

Article 63 Where anyone, in violation of the provisions of Article 10 or Article 11 of this Law, approves without authorization the granting of land-use right or grants land-use right without due approval for development of real estate, the person who is held responsible shall be given an administrative sanction by an organ at a higher level or by the unit to which he belongs.

Article 64 Whoever, in violation of the provisions of Article 29 of this Law, engages in business of real estate development without obtaining a business license shall be ordered to stop activities of real estate development and confiscated of his unlawful proceeds and may be concurrently imposed a fine by the administrative department for industry and commerce under the people's government at or above the county level.

Article 65 Whoever, in violation of the provisions of paragraph 1 of Article 38 of this Law, transfers the land-use right shall be confiscated of his unlawful proceeds and may be concurrently imposed a fine by the department of land administration under the people's government at or above the county level.

Article 66 Whoever, in violation of the provisions of paragraph 1 of Article 39 of this Law, transfers real estate shall be ordered to pay the fees for the granting of the land-use right, confiscated of his unlawful proceeds and may concurrently be imposed a fine by the department of land administration under the people's government at or above the county level.

Article 67 Whoever, in violation of the provisions of paragraph 1 of Article 44 of this Law, pre-sells commercial houses shall be ordered to stop activities of presale, confiscated of his unlawful proceeds and may concurrently be imposed a fine by the department of housing administration under the people's government at or above the county level.

Article 68 Whoever, in violation of the provisions of Article 57 of this Law, engages in intermediary services for real estate business without obtaining a business license shall be ordered to stop activities of intermediary services for real estate business, confiscated of his unlawful proceeds and may concurrently be imposed a fine by the administrative department for industry and commerce under the people's government at or above the county level.

Article 69 Whoever collects fees from a real estate development enterprise without the basis of laws, rules and regulations shall be ordered by the organ at a higher level to return the fees thus collected; if the circumstances are serious, the person who is held directly responsible shall be given an administrative sanction by the organ at a higher level or by the unit to which he belongs.

Article 70 Where functionaries of departments of housing administration or land administration commit negligence of duty or abuse of power and the case constitutes a crime, they shall be investigated for criminal responsibilities in accordance with the law; if the case does not constitute a crime, they shall be given administrative sanctions.

Where functionaries of departments of housing administration or land administration take advantage of their functions and powers to extort money or properties from others or to illegally receive money or properties from others, thus seeking gains for others, and the case constitutes a crime, they shall be investigated for criminal responsibilities in accordance with the supplementary provisions on punishing crimes of embezzlement and bribery; if the case does not constitute a crime, they shall be given administrative sanctions.

Chapter VII Supplementary Provisions

Article 71 Obtaining the land-use right for development of real estate, engaging in development of real estate and transaction of real estate, and exercising administration of real estate in the State-owned land outside of a planned urban district shall be carried out by making reference to this Law.

Article 72 This Law shall enter into force as of 1 January 1995.