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LEGAL UPDATE

No. 2 – November 2023

(15 Nov 2023 – 30 Nov 2023)



News in focus

Several new highlights of the Law on real estate trading 2023



New legal documents

Remarkable among documents :

The Minister of Public Security's Circular 66/2023/TT-BCA amending Circular 55/2021/TT-BCA guiding the Law on Residence; Circular 56/2021/TT-BCA stipulating forms in residence registration and management; Circular 57/2021/TT-BCA stipulating the residence registration process

A – News in focus



Several new highlights of the Law on real estate trading 2023

On November 28, 2023, the National Assembly officially pressed the button to pass the Law on real estate trading (amended). Accordingly, the Law on real estate trading 2023 has many outstanding new points compared to the Law on real estate trading 2014. The law takes effect from January 1, 2025.

In this legal update, WIKI LEGAL will summarize some important new points of the amended Law on real estate trading 2023 that strongly impact the real estate market.

1. Increasing the investor's responsibility

If the Law on real estate trading 2014 does not allow project investors to authorize parties to cooperate in signing contracts for sale, transfer, lease and purchase of real estate, the amended Law on real estate trading 2023 adds provisions that project investors do not allow to sign deposit contracts.

In addition, the new Law stipulates that within 50 days from the date of handing over housing to the buyer or from the time the lessee has paid in full, the investor must submit a dossier of request to the state authority to issue a certificate to the buyer, the lessee...

2. Use the real estate business contract template

Investors of real estate projects, real estate business enterprises use contracts template issued by the Government. The contracts template only include the main contents and other contents as agreed by the parties.

This regulation respects the agreement of the parties and ends the debate on whether to mandatory or choose to apply the contract template according to Decree 02/2022/ND-CP.

3. Acknowledging the investor's deposit rights

The amended Law on real estate trading 2023 has clearly recorded that investors of real estate projects are entitled to collect deposits not exceeding 5% of the sale, lease and purchase price of houses, construction works, the construction floor area in construction works from customers when housings, construction works have fully met the conditions for putting into business as prescribed by this Law.

Previously, the Law on real estate trading 2014 did not record the receipt of deposits by investors for products that are real estate formed in the future.

4. Investors are required to fulfill their financial obligations on land before putting real estate products formed in the future into business

The amended Law on real estate trading 2023 tightens conditions for real estate put into business, especially stipulating that *"The project investor has fulfilled its financial obligations on land including land use levy, land rent and taxes, land-related fees and charges (if any) to the State in accordance with the laws on land attached to houses or construction works putting into business"*.

Previously, Article 55 of the Law on real estate trading 2014 did not clearly stipulate this condition, some localities applied the regulation that investors must fulfill their obligations (including financial obligations) to force investors to fulfill financial obligations for land.

5. Stricter regulations on guarantees in the sale, lease and purchase of houses formed in the future

The project investor before selling, leasing and buying houses formed in the future must be approved by the bank to grant a guarantee for the investor's financial obligations to the housing buyer or lessee when the investor fails to hand over the housing as committed.

When signing a contract of sale, hire & purchase, customers are allowed to choose whether there is a guarantee for the investor's financial obligations to them.

6. Conditions for land subdivision are tighter

Conditions for land transferred to individuals to build their own houses (subdivision) agreed with the Law on Housing passed on November 27: Not belonging to wards, districts or cities of special urban areas, types I, II, III; not in the case of auction of land use rights. The provincial People's Committee will determine the areas to be allocated for sale towards the rest lands.

In addition, before transferring land use rights, the project investor must send a written notice to the Department of Construction; Within 15 days, the Department of Construction shall check the conditions of the land use right put into business and reply in writing about the eligibility/ineligibility for certification.

7. Tighten conditions for transferring all/part of real estate projects

Conditions for transferring all/part of the real estate project: The transferring investor must fulfill the financial obligations on land of the project including land use levy, land rent and taxes, fees and charges related to the land of the project and the transferred project part.

Thus, the new law tightens conditions for transferring real estate projects, stipulating that the transferor must fulfill financial obligations to the State; not recording the agreement of the parties.

8. Land procedures towards the transferee of a real estate project is a foreign-invested economic organization

In case the transferee of the whole or part of the project is a foreign-invested economic organization, after issuing a decision allowing the transfer and the parties have signed the transfer contract, the land procedures shall be carried out in accordance with the provisions of land laws.

This point overcomes the disadvantage of the Law on real estate trading 2014 that the transferor must return the land to the State so that the State can allocate the land to the transferee.

9. Authority to grant permission to the transfer of the project

Maintaining the provisions of the Law on real estate trading 2014, only supplement the regulation that the Prime Minister authorizes the Provincial People's Committee to decide to transfer the part of the project.

10. Assignment of real estate business contracts

The new law stipulates that only 3 types of contracts can be transferred: housing purchase and sale contracts formed in the future; The lease agreement for the purchase of housing formed in the future; Lease agreement for purchase of available construction works.

B - New legal documents



Remarkable new legal documents (Enacted from 15 Nov 2023 to 31 Nov 2023)

No.	Legal documents
INVESTMENT – CONMMERCE	
1	Decree 80/2023/ND-CP amending Decrees 95/2021/ND-CP and 83/2014/ND-CP on petroleum trading
	Enactment Date: 17 Nov 2023
2	The Government's Resolution 190/NQ-CP in 2023 on central budget capital for the implementation of the project on land acquisition, compensation, support and resettlement of Long Thanh International Airport
	Enactment Date: 17 Nov 2023
3	The Ministry of Construction's Report No. 219/BC-BXD in 2023 on absorbing, adjusting and completing the draft Law on Real Estate Business (amended)
	Enactment Date: 16 Nov 2023
INTELLECTUAL PROPERTY	
4	Decree 79/2023/ND-CP guiding the Law on Intellectual Property on rights to plant varieties
	Enactment Date: 15 Nov 2023

No.	Legal documents	
BANKING – SECURITIES		
5	Minister of Finance’s Circular 69/2023/TT-BTC amending Circular 57/2021/TT-BTC stipulating the roadmap for rearranging the stock trading market, bond trading market, derivatives trading market and other securities trading market	
	Enactment Date: 15 Nov 2023	Effective Date: 30 Dec 2023
6	The Governor of the State Bank of Vietnam’s Circular 14/2023/TT-NHNN on the internal control system of non-bank credit institutions	
	Enactment Date: 20 Nov 2023	Effective Date: 01 Oct 2024
ADMINISTRATION – JUSTICE		
7	The Minister of Public Security’s Circular 65/2023/TT-BCA stipulates that the head of the professional department of the People’s Public Security has the authority to sanction administrative violations in the field of security, social order and safety; social evils prevention; fire fight and prevention; rescue; prevention and control of domestic violence	
	Enactment Date: 17 Nov 2023	Effective Date: 0 Jan 2024
8	The Minister of Public Security’s Circular 66/2023/TT-BCA amending Circular 55/2021/TT-BCA guiding the Law on Residence; Circular 56/2021/TT-BCA stipulating forms in residence registration and management; Circular 57/2021/TT-BCA stipulating the residence registration process	
	Enactment Date: 17 Nov 2023	Effective Date: 01 Jan 2024
TRAFFIC – CONSTRUCTION		
9	The Minister of Construction’s Circular 12/2023/TT-BXD stipulating the decentralization of organizations to formulate new urban general plannings with a population size forecasted to be equivalent to a class III urban area or higher	
	Enactment Date: 20 Nov 2023	Effective Date: 10 Jan 2024
10	The Minister of Transport’s Circular 32/2023/TT-BGTVT amending Circular 10/2020/TT-BGTVT stipulating the ordering and bidding for the provision of public non-business services for management and maintenance of national inland waterways using the State budget from recurrent expenditures	
	Enactment Date: 28 Nov 2023	Effective Date: 15 Jan 2024
11	The Minister of Transport’s Circular 33/2023/TT-BGTVT stipulating the decentralization of specialized State management of inland waterway transport at ports, inland waterways and mooring areas	
	Enactment Date: 28 Nov 2023	Effective Date: 15 Jan 2024