



# SPECIAL ALERT

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## NOTABLE CHANGES IN THE (AMENDED) LAW ON RESIDENTIAL HOUSING

On November 27<sup>th</sup> 2023, the (amended) Law on Residential Housing (the “**Amended RH Law**”) was passed by Legislature XV of the National Assembly of the Socialist Republic of Vietnam and shall take effect on January 1<sup>st</sup> 2025. In this article, we would like to highlight some notable changes in this Amended RH Law.

### **Time when residential housing ownership is created in case of directly investment in construction of residential housing (Article 12)**

According to the Amended RH Law, in case of directly investment in construction of residential housing, the time when residential housing ownership is created is the time when the construction of residential housing is completed in accordance with the laws on construction.

### **Developers of investment projects in construction of commercial residential housing must be real estate enterprises (Article 36.3)**

The Amended RH Law has tightened the conditions and requirements for a commercial residential housing developer. Accordingly, under the Amended RH Law, developer of investment project in construction of commercial residential housing must be real estate enterprise.

In addition, the Amended RH Law also provides that a real estate enterprise can be granted the in-principle decision on investment together with the approval for being a developer of a commercial residential housing project if this enterprise has received the transfer of land use right (via agreements with the land users) or currently has the usage of land eligible for development of commercial housing project in accordance with the provisions of the Law on Land.

### **Granting certificates of house ownership for apartments in multi-storey residential housing (mini- apartment blocks) (Article 57)**

The Amended RH Law allows the developers being individuals to sell, hire, hire purchase apartments in multi-storey residential housing (mini-apartment blocks) qualified to be granted certificate of house ownership in accordance with the provisions of the laws on land, residential housing and real estate business. For this purpose, the competent authorities have set out the strict requirements related to the investment in and the development of the multi-storey residential housing (mini-apartment blocks).

Particularly, individuals who have lawful use right of land when building (i) housing having more than two (02) floors and each floor having apartments for sale, hire purchase or blend of both forms; (ii) housing having more than two (02) floors and more than twenty (20) apartments for lease must meet the requirements applicable to developers and the investment must comply with law on constructions and other laws related to projects for construction of housing.

#### **Term of use of the apartment buildings (Article 58)**

The Amended RH Law provides that the term of use of the apartment buildings shall be determined based on the design documents and the actual term of use of the apartment buildings according to the inspection conclusion of the competent authority. In addition, regulations on mechanisms, policies as well as measures to renovate and rebuild apartment buildings of which the term of use has expired or has degraded are set out carefully therein for protection of the residents safe.

#### **Exemption of land use fees for renovated land, re-construction of apartment buildings for developers (Article 63)**

Many preferential mechanisms such as exemption of land use fees, land rent for areas allocated in projects have been established in the Amended RH Law to support projects for re-construction of apartment buildings by the developers. Furthermore, the developers do not have to carry out procedures on determining land price, land use fees, exempted fees as well as procedures to request exemption of land uses fees and land rent.

#### **Abolishment of condition for residence in policies on assistance for social residential housing (Article 78)**

Under Law on Residential Housing 2014, one of the conditions which the buyers of the social residential housing must satisfy is residence registration. Accordingly, they must have permanent residence registration or a temporary residence registration for one year or more at the province or city under central authority where the social housing is located. This condition is abolished in the Amended RH Law.

#### **Vietnam General Confederation of Labour (VGCL) to be the governing body of projects for development of social residential housing for lease (Article 80.4)**

The Amended RH Law provides that VGVL shall be the governing body of projects for development of social residential housing for lease to workers and employees entitled to the policy on residential housing assistance. The capital source shall originate from the trade union's fund.

The management and implementation of the project shall be handled by a project management unit belonged to VGCL in accordance with laws on public investment.

### **Expansion of forms of capital mobilization for commercial residential housing development (Article 115.1)**

In addition to four forms of capital mobilization for development of commercial residential housing project under Law on Residential Housing 2014, the Amended RH Law has added one new form being capital mobilized through issuance of bonds, stocks, and fund certificates in accordance with the laws.

### **Establishing detailed guidelines on maintenance fund in apartment buildings (Articles 152, 153, 154)**

The Amended RH Law clearly provides that the developer must open a separate bank account to manage the maintenance fund and does not permit to use the maintenance fund for any other purposes prior to the handover of such fund to the apartment building management committee (the “**Apartment Management Committee**”). If the developer fails to hand over the maintenance fund, the Apartment Management Committee shall send the letter to the district level People’s Committee of the location where the apartment building is located requesting the developer to carry out the handover of the maintenance fund.

The district level People’s Committee shall, within fifteen (15) days from the date of receipt of the letter from the Apartment Management Committee, issue a letter to the developer requesting them to hand over the maintenance fee to the Apartment Management Committee. If the developer fails to voluntarily hand over the maintenance fee to the Apartment Management Committee within fifteen (15) days from the date of receipt of the letter from the district level People’s Committee, the district level People’s Committee is obligated to issue the enforcement decision and proceed with the enforcement to collect the maintenance fee from the developer and hand over to the Apartment Management Committee.

## CONTACT US

If you wish to discuss any of these issues further, please contact us.



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