

Law on Housing No. 27/2023/QH15

Legal Update | April 2024

This Update highlights the following key points:

- ▶ New requirements for developers in commercial housing construction investment projects
- ▶ Construction and management of multi-storey, multi-apartment houses
- ▶ No limit on the period of ownership of apartment buildings
- ▶ Exemption from land use levy in renovation and reconstruction of apartment buildings
- ▶ Developers must open a separate bank account for maintenance funds for a multi-owner apartment building
- ▶ Commercial arbitration becomes a housing dispute resolution agency
- ▶ Development of social housing construction investment projects

On 27 November 2023, the National Assembly issued the Law on Housing No. 27/2023/QH15 (Law on Housing 2023), which will replace the current Law on Housing No. 65/2014/QH13 (Law on Housing 2014).

The Law on Housing 2023 will take effect from 1 January 2025, and is expected to resolve difficulties and obstacles arising in the housing market. With this Legal Update, we would like to highlight notable changes and major impacts it will have on the Vietnam housing market.

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1. New requirements for developers in commercial housing construction investment projects

- ▶ The Law on Housing 2023 stipulates some following notable changes on requirements towards the developers of commercial housing construction investment projects (Commercial Housing Projects):
 - ▶ Must be real estate enterprises and satisfy conditions applicable to developers of housing construction investment project in general
 - ▶ Must (i) have been allocated land or leased land as a result of successful land auction or winning bids for selection of developers of land-using projects (or otherwise accepted as investors when organizing auction, bidding in accordance with investment laws); or (ii) have in-principle investment approval concurrently with the approval for being the project investor through agreements on receipt of land use right or holding land use rights for the type of land eligible for implementation of Commercial Housing Projects pursuant to the Law on Land

2. Construction and management of multi-storey, multi-apartment houses

The Law on Housing 2023, for the first time, sets forth legal framework for multi-storey, multi-apartment houses of individuals, which are popularly known as “mini apartments”.

- ▶ In terms of conditions, the Law on Housing 2023 requires individuals to meet conditions applicable to developers of a housing construction investment project if they implement either of the following types:
 - ▶ A house with two floors or more in which each floor has apartments designed and built for sale, lease-purchase, for combined purposes of sale, lease-purchase and rent
 - ▶ A house with two floors or more with a scale of twenty apartments or more for rent
- ▶ Regarding the issuance of ownership certificates, apartments in the two above-mentioned projects will be granted ownership certificates in accordance with the land law. Apartments can be sold, leased, or lease-purchased pursuant to the Law on Housing 2023 and real estate business law.
- ▶ Regarding property management, the Law on Housing 2023 generally requests compliance with conditions and standards on constructions, fire prevention, traffic, and operation management applicable to apartments.

3. No limit on the period of ownership of apartment buildings

Pursuant to the Law on Housing 2023, there is no limit on ownership period of apartment building, instead of that use duration is provided. The use duration of an apartment building is determined by the design dossier and its actual use period concluded by competent authorities, which must be recorded in the appraisal document of competent authorities, rather than based on the level of construction work and quality inspection conclusions as prescribed in the Law on Housing 2014.

4. Exemption from land use levy in renovation and reconstruction of apartment buildings

- ▶ The Law on Housing 2023 provides incentive mechanisms for developers implementing renovation or reconstruction investment projects of apartment building such as exemption from land use levy or land rents (if any) within scope of these renovation or reconstruction investment projects.
- ▶ Concurrently, developers are not required to carry out procedures to value land, to calculate exempted land use levies or land rents, and to apply for such exemptions.

5. Developers must open a separate bank account for maintenance funds for a multi-owner apartment building

- ▶ The Law on Housing 2023 requires developers of housing construction investment projects to open a bank account to manage maintenance funds for a multi-owner apartment building.
- ▶ Concurrently, the Law on Housing 2023 also tightens the management and use of maintenance funds by clearly stipulating that developers are not allowed to use maintenance funds for any other purpose before handing them over to the Building Management Board. If the developer does not hand over maintenance funds, the Building Management Board shall send a written request to the district-level People's Committee where the apartment building is located to require the developer's handover of the maintenance funds. If the developer fails to follow district-level People's Committee's request on the handover of maintenance funds, the district-level People's Committee shall issue an enforcement decision and organize the collection of maintenance funds to be handed over to the Building Management Board.

6. Commercial arbitration becomes a housing dispute resolution agency

For the first time, the Law on Housing 2023 prescribes that commercial arbitration become a housing dispute resolution agency. Specifically, disputes on housing ownership and use rights of organizations and individuals, disputes related to housing transactions, management and operation of apartment buildings shall be settled by commercial arbitrations, beside by the courts as under prevailing regulations.

7. Development of social housing construction investment projects

7.1. Expansion of entities eligible to enjoy social housing assistance policies

The Law on Housing 2023 has added enterprises in industrial parks to be beneficiaries of social housing assistance policies. Accordingly, these enterprises are allowed to rent workers accommodation houses in industrial parks to arrange for their workers' sub-leasing.

7.2. Allocation of land funds for social housing development

- ▶ Specifically, provincial-level People's Committees must allocate sufficient land funds for social housing development in accordance with approved provincial-level housing development programs and plans.

- ▶ In urban areas of special grade, grades I, II and III, pursuant to the Government's regulations, the provincial-level People's Committees shall decide that developers of Commercial Housing Projects must (i) reserve a part of the residential land area in the projects which has been built technical infrastructure systems to build social houses or (ii) arrange a social housing land fund which has been built technical infrastructure systems at outside of the Commercial Housing Project in this urban area or (iii) make payment equivalent to value of land fund which has been built technical infrastructure systems to build social houses.

7.3. Developers of social housing construction investment projects are entitled separate accounting

- ▶ The Law on Housing 2023 allows developers of social housing construction investment projects (Social Housing Projects) to make separate accounting. The developers are not allowed to include expenditures from investment on construction works used for business of service, mercantile, and commercial housing structures into social housing prices.
- ▶ In addition, the developers are entitled to receive all profits generated from construction works used for business service, mercantile, commercial housing structures.

7.4. Changes in the principle on sale, lease-purchase of social houses

- ▶ Under the Law on Housing 2023, the lessee-purchasers/purchasers of social houses shall not resell the houses within at least five years from the date of full payment for the housing lease-purchase/purchase.
- ▶ As an exception, however, within the above five years period, the lessee-purchasers/purchaser could resell the social houses to (i) the social housing management unit/developers of such Social Housing Project or (ii) the entities eligible to purchase social houses with the maximum selling price equivalent to the price stated in the previous lease-purchase/purchase contract.

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APAC No. 16150401

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