Urban Real Estate Administration Law of the People’s Republic of China – Full English Translation (2019 Amendment)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Chapter I — General Provisions . . . 1

Chapter II — Land for Real Estate Development . . . 2

Section 1: Grant of Land Use Rights . . . 2

Section 2: Allocation of Land Use Rights . . . 4

Chapter III — Real Estate Development . . . 4

Chapter IV — Real Estate Transactions . . . 5

Section 1: General Provisions . . . 5

Section 2: Transfer of Real Estate . . . 5

Section 3: Mortgage of Real Estate . . . 6

Section 4: Lease of Houses . . . 7

Section 5: Intermediary Service Agencies . . . 7

Chapter V — Registration of Real Estate Title and Ownership . . . 7

Chapter VI — Legal Liability . . . 8

Chapter VII — Supplementary Provisions . . . 9

The Urban Real Estate Administration Law of the People’s Republic of China was adopted at the Eighth Meeting of the Standing Committee of the Eighth National People’s Congress on July 5, 1994, and took effect on January 1, 1995. It was first amended on August 30, 2007, and most recently amended on August 26, 2019, by the Decision on Amending the Urban Real Estate Administration Law of the People’s Republic of China adopted at the Twelfth Meeting of the Standing Committee of the Thirteenth National People’s Congress. This law governs the development, transfer, and administration of urban real estate in China, including land use rights, real estate development, real estate transactions, and property management. For foreign investors, this law is essential to understanding the legal parameters for acquiring office space, building facilities, or engaging in real estate development projects in Chinese cities.

Table of Contents

Chapter I — General Provisions

Article 1. This Law is enacted for the purposes of strengthening the administration of the urban real estate industry, maintaining the order of the real estate market, protecting the legitimate rights and interests of real estate rights holders, and promoting the sound development of the real estate industry.

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Article 2. The obtaining of land use rights for real estate development, real estate development, real estate transactions, and real estate administration within the state-owned land of a planned urban area within the territory of the People's Republic of China shall be governed by this Law. For the purposes of this Law, "real estate development" means the construction of infrastructure and buildings on the land of which the land use rights are obtained in accordance with this Law. For the purposes of this Law, "real estate transactions" means the transfer, mortgage and lease of real estate.

Article 3. The state shall, in accordance with the law, implement a system of compensated and term-limited use of state-owned land, except for land the right to use of which is allocated by the state within the scope specified in this Law.

Article 4. The state shall, based on the level of social and economic development, support the development of residential housing construction and gradually improve the housing conditions of residents.

Article 5. Real estate rights holders shall observe laws, regulations and administrative rules, and pay taxes in accordance with the law. The legitimate rights and interests of real estate rights holders shall be protected by law and shall not be infringed upon by any organization or individual.

Article 6. For the needs of the public interest, the state may expropriate houses and other immovable property on collectively owned land or state-owned land. The expropriation of houses and other immovable property on collectively owned land shall be carried out in accordance with the law, with adequate and timely payment of compensation such as land compensation fees, resettlement subsidies, and compensation for rural villagers' houses, other ground attachments and young crops; where housing of the relocated persons is involved, the housing conditions of the relocated persons shall be safeguarded and their lawful rights and interests protected. The expropriation of houses and other immovable property on state-owned land shall be carried out in accordance with the law, with payment of compensation for the value of the expropriated houses, compensation for relocation or temporary resettlement, and compensation for losses resulting from suspension of production or business.

Article 7. The housing and urban-rural development department of the State Council and the land administration department of the State Council shall, in accordance with the division of functions and powers prescribed by the State Council, perform their respective duties and cooperate closely in the administration of the national urban real estate work. The establishment and functions and powers of the administrative departments for real estate and land administration of the local people's governments at or above the county level shall be determined by the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government.

Chapter II — Land for Real Estate Development

Section 1: Grant of Land Use Rights

Article 8. The land use right for real estate development may be obtained through grant (chu rang) or allocation (hua bo).

Article 9. The grant of land use rights means the act whereby the state, as the owner of land, grants the land use rights to a land user for a specified period, and the land user pays a land grant fee to the state. The grant of land use rights shall be carried out through an agreement where there is an agreement, or through invitation of bids or auction where there is an invitation of bids or an auction. Where the land use is for commerce, tourism, entertainment or commercial housing, the land use rights must be obtained through invitation of bids, auction or listing (zhao biao, pai mai, gua pai), if conditions permit.

Article 10. The grant of land use rights for real estate development must comply with the overall land use plan, the annual land use plan for construction and the urban and rural planning.

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Article 11. The grant of land use rights for real estate development by the people's governments at or above the county level shall be subject to the centralized and unified administration of the people's governments at or above the county level under the procedures prescribed by the State Council, and shall be submitted level by level to the provincial, autonomous region or municipality directly under the Central Government for approval in accordance with the planned indicators issued by the State Council. The specific quota for the grant of land use rights for real estate development shall be handled by the land administration department of the State Council or the people's governments of the provinces, autonomous regions or municipalities directly under the Central Government in accordance with the relevant provisions.

Article 12. The grant of land use rights shall be specifically implemented by the land administration departments of the municipal or county people's governments in a planned, step-by-step manner. The plan for the grant of land use rights shall be formulated by the land administration departments of the municipal or county people's governments jointly with the urban and rural planning, construction and real estate administration departments, and shall be implemented after approval in accordance with the prescribed procedures.

Article 13. The maximum term for the grant of land use rights shall be determined in accordance with the following uses: (1) 70 years for residential use; (2) 50 years for industrial use; (3) 50 years for educational, scientific and technological, cultural, public health and sports use; (4) 40 years for commerce, tourism or entertainment use; and (5) 50 years for comprehensive or other uses.

Article 14. The grant of land use rights shall be subject to a written contract for the grant of land use rights. The contract for the grant of land use rights shall be concluded between the land administration departments of the municipal or county people's governments and the land user. The contract shall specify such matters as the location, area and boundaries of the land, the purpose and term of use, the amount and method of payment of the land grant fee, the time limits for the commencement of construction and for the completion of development, the conditions for the construction and use of the land, and the liability for breach of contract.

Article 15. A land user shall pay the land grant fee in accordance with the contract for the grant of land use rights. Where the land grant fee is not paid within the agreed time limit, the grantor shall have the right to terminate the contract and claim damages.

Article 16. Where a land user has paid the land grant fee in accordance with the contract for the grant of land use rights, the land administration departments of the municipal or county people's governments must provide the land in accordance with the contract; where the land is not provided in accordance with the contract, the land user shall have the right to terminate the contract and claim the refund of the land grant fee, and the land user may also claim damages.

Article 17. Where a land user needs to change the land use purpose as specified in the contract for the grant of land use rights, it shall obtain the consent of the grantor and the approval of the land administration department and the urban and rural planning department of the people's government, and a new contract for the grant of land use rights shall be concluded or the existing contract shall be amended accordingly, and the land grant fee shall be adjusted.

Article 18. The land use rights grant fee shall be turned over to the state treasury and shall be incorporated into the budget for the construction of urban infrastructure and for land development. The specific measures for the use and administration of the land use rights grant fee shall be formulated by the State Council.

Article 19. Before the expiration of the term of land use rights granted by the state, the state shall not recover the land use rights, except where recovery is required for public interest and in accordance with legal procedures, in which case the state shall provide appropriate compensation in light of the actual term during which the land user has used the land and the state of development and utilization of the land.

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Article 20. Land use rights shall be extinguished upon expiration of the term specified in the contract for the grant of land use rights, recovery of the land by the state in accordance with the provisions of Article 19 of this Law, or premature termination of the land use rights for other reasons. The land user shall return the land use right certificate and complete the cancellation of registration procedures.

Article 21. Where the land use rights are extinguished upon expiration of the term of grant, the land user may apply for renewal. Where renewal is required, a new contract shall be concluded in accordance with the provisions, the land grant fee shall be paid and registration shall be completed.

Article 22. Where the land use rights are obtained through grant in accordance with the law, the transfer, lease or mortgage of the land use rights shall be subject to the provisions of this Law and other relevant laws, administrative regulations and rules.

Section 2: Allocation of Land Use Rights

Article 23. The land use rights for the following land for construction may be obtained through allocation upon approval by the people's government at or above the county level in accordance with the law: (1) land used by state organs or for military use; (2) land for urban infrastructure and public utility; (3) land for energy, transportation, water conservancy and other projects supported by the state; and (4) land for other purposes as provided by laws and administrative regulations.

Article 24. Land use rights obtained through allocation shall not be transferred, leased or mortgaged except as otherwise provided by laws and administrative regulations. Where the user of land use rights obtained through allocation intends to transfer, lease or mortgage such land use rights, it shall apply for approval in accordance with the provisions of the State Council. Where approval is obtained, the land user shall complete the procedures for the grant of land use rights and pay the land grant fee to the state, or use the proceeds from such transfer, lease or mortgage to offset the land grant fee.

Chapter III — Real Estate Development

Article 25. Real estate development must strictly follow the urban and rural planning and shall be carried out in a manner that comprehensively balances economic, social and environmental benefits, implementing the principles of comprehensive planning, rational layout, comprehensive development and phased construction.

Article 26. Where the land use rights are obtained through grant for real estate development, the land shall be developed within the time limit specified in the contract for the grant of land use rights. Where the development is not commenced within one year, a land idle fee equivalent to not more than 20% of the land grant fee may be levied; where the development is not commenced within two years, the land use rights may be recovered without compensation, unless the delay is caused by force majeure, acts of government or relevant government departments, or necessary preliminary work for the commencement of construction.

Article 27. The design and construction of real estate development projects must comply with the relevant standards and norms of the state. A real estate development project shall be completed and accepted for delivery in accordance with the state provisions only after passing the completion acceptance.

Article 28. For real estate development projects that are developed in phases in accordance with the law, the phased completion acceptance may be conducted. A real estate development project shall be delivered for use or sold only after passing the completion acceptance.

Article 29. Where two or more parties jointly invest in and develop real estate, a written joint development agreement shall be concluded in accordance with the law, specifying the rights and obligations of each party.

Article 30. A real estate development enterprise shall be a profit-making enterprise legal person engaged in real estate development and operation. The establishment of a real estate development enterprise shall meet the following conditions: (1) have its own name and organizational structure; (2) have a fixed place of business; (3) have registered capital that complies with the provisions of the State Council; (4) have a

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sufficient number of professional and technical personnel; and (5) other conditions as provided by laws and administrative regulations. A real estate development enterprise shall, within one month after obtaining a business license, report for record with the real estate administration department of the local people's government at or above the county level at the place where the registration authority is located.

Article 31. The ratio between the registered capital of a real estate development enterprise and the total investment amount shall comply with the relevant state provisions. Where a real estate development enterprise develops real estate in phases, the amount of investment in each phase shall be commensurate with the scale of the project and the registered capital shall be injected in a timely manner in accordance with the provisions of the contract for the grant of land use rights for each phase.

Chapter IV — Real Estate Transactions

Section 1: General Provisions

Article 32. Where real estate is transferred or mortgaged, the ownership of the building and the land use right within the area occupied by the building shall be transferred or mortgaged simultaneously.

Article 33. The benchmark land price, the replacement price for various types of buildings and the standard land price shall be determined and published regularly. The specific measures shall be formulated by the State Council.

Article 34. The state shall implement a real estate price assessment system. Real estate price assessment shall be conducted in accordance with the principles of fairness, impartiality and openness, in accordance with the technical standards and assessment procedures prescribed by the state, based on the benchmark land price, the replacement price for various types of buildings and the standard land price, and in light of the local market prices.

Article 35. The transfer or mortgage of real estate shall be subject to registration of the real estate title. The parties concerned shall apply for registration of the transfer or mortgage with the real estate administration department at the place where the real estate is located.

Article 36. The state may implement a system of transaction administration for real estate transactions in which the transaction price is declared. Where a real estate rights holder transfers real estate, it shall truthfully declare the transaction price to the department designated by the local people's government at or above the county level, and shall not make a false declaration or conceal the true price.

Section 2: Transfer of Real Estate

Article 37. Transfer of real estate means the act whereby a real estate rights holder transfers its real estate to another person by means of sale, gift or other lawful means.

Article 38. The following real estate shall not be transferred: (1) real estate where the land use rights are obtained through grant but do not satisfy the conditions specified in Article 39 of this Law; (2) real estate where the rights have been sealed up or otherwise restricted by judicial authorities or administrative authorities in accordance with the law; (3) real estate where the land use rights have been recovered in accordance with the law; (4) real estate that is under co-ownership and has not been approved in writing by the other co-owners; (5) real estate with disputed title; (6) real estate for which the certificate of title has not been registered and obtained in accordance with the law; and (7) other circumstances under which transfer is prohibited by laws or administrative regulations.

Article 39. Where the land use rights are obtained through grant, the transfer of the real estate shall satisfy the following conditions: (1) the land grant fee has been paid in full in accordance with the contract for the grant of land use rights, and the certificate of land use rights has been obtained; and (2) the investment and development have been completed in accordance with the contract for the grant of land use rights. Where the land use rights are obtained through grant for building construction, 25 percent or more of the total

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investment for development must have been completed; where the land is for tract development, conditions for industrial land or other land for construction must have been met.

Article 40. Where real estate is transferred with land use rights obtained through allocation, the transfer shall be submitted for approval in accordance with the provisions of the State Council. Where approval is granted, the transferee shall complete the procedures for the grant of land use rights and pay the land grant fee to the state, in accordance with the relevant state provisions. Where, in accordance with the provisions of the State Council, approval is granted without having to complete the procedures for the grant of land use rights, the transferor shall turn over to the state all proceeds derived from the land in the transfer of the real estate, or deal with such proceeds in other ways prescribed by the State Council.

Article 41. The transfer of real estate shall be subject to a written transfer contract. The transfer contract shall specify such matters as the method of obtaining the land use rights, the location and area of the land, the area and structure of the building, the transaction price, the time and method of delivery of the real estate, and the liability for breach of contract.

Article 42. Where real estate is transferred, the rights and obligations specified in the contract for the grant of land use rights shall be transferred along with the transfer, and the term of the land use rights acquired by the transferee shall be the remaining term of the land use rights stated in the original contract for the grant of land use rights.

Article 43. Where real estate is transferred, and the transferee intends to change the land use purpose specified in the original contract for the grant of land use rights, it shall obtain the consent of the original grantor and the approval of the land administration department and the urban and rural planning department of the people's government, a new contract for the grant of land use rights shall be concluded or the existing contract shall be amended accordingly, and the land grant fee shall be adjusted.

Article 44. The pre-sale of commercial housing shall satisfy the following conditions: (1) the land grant fee has been paid in full and the certificate of land use rights has been obtained; (2) the construction project planning permit and the construction project commencement permit have been obtained; (3) the funds invested in the pre-sale commercial housing project have reached 25 percent or more of the total project investment and the schedule of construction progress and the date of completion and delivery have been determined; and (4) registration for pre-sale has been completed with the real estate administration department of the people's government at or above the county level and the pre-sale permit for commercial housing has been obtained. A commercial housing pre-seller shall, in accordance with the relevant state provisions, submit the pre-sale contract to the real estate administration department and the land administration department of the people's government at or above the county level for record.

Article 45. The mortgage of pre-sold commercial housing shall be governed by the relevant state provisions.

Article 46. The revenue obtained from the pre-sale of commercial housing shall be used for the relevant project construction.

Section 3: Mortgage of Real Estate

Article 47. Mortgage of real estate means the act whereby a mortgagor provides security for the performance of an obligation to a mortgagee by means of its lawful real estate without transferring possession of the real estate. Where the debtor fails to perform the obligation, the mortgagee shall have the right to be paid in priority from the proceeds of the auction or sale of the mortgaged real estate in accordance with the law.

Article 48. The building and the land use right within the area occupied by the building obtained in accordance with the law may be mortgaged. The land use rights obtained through grant may be mortgaged. The land use rights obtained through allocation may be mortgaged only if the relevant conditions prescribed by laws and administrative regulations are satisfied.

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Article 49. The land use rights obtained through allocation may be mortgaged. Upon auction of the mortgaged real estate in accordance with the law, the proceeds shall be applied first to pay the amount equivalent to the land grant fee payable for the land use rights, after which the mortgagee may be paid in priority.

Article 50. A mortgage of real estate shall be evidenced by a written mortgage contract. The mortgage contract shall specify such matters as the type and amount of the secured obligation, the term for the debtor's performance of the obligation, the name, location, area and conditions of the mortgaged real estate, and the scope of the security.

Article 51. Where a mortgage is created on real estate, the land use right within the area occupied by the building shall be mortgaged simultaneously. Where a mortgage is created on land use rights obtained through grant, the building on the land shall be mortgaged simultaneously. Where the mortgagor fails to comply with the provisions of the preceding paragraph, the building not mortgaged shall be deemed to be mortgaged simultaneously.

Article 52. Where a debtor fails to perform its obligation upon expiration of the term and the parties have agreed on the method of satisfaction, the mortgagee and the mortgagor may agree to discount the mortgaged real estate or to be paid in priority from the proceeds from the auction or sale of the mortgaged real estate. Where no agreement is reached, the mortgagee may apply to the people's court for the auction or sale of the mortgaged real estate. After the mortgaged real estate is discounted, auctioned or sold, the portion exceeding the amount of the obligation shall belong to the mortgagor, and any shortfall shall be paid by the debtor.

Section 4: Lease of Houses

Article 53. Lease of real estate means the act whereby a real estate rights holder, as the lessor, leases its real estate to a lessee for use, and the lessee pays rent to the lessor.

Article 54. A written lease contract shall be concluded for the lease of a house. The lease contract shall specify such matters as the term of lease, purpose of use, rent, and the responsibility for repair.

Article 55. The lessor and lessee of a house shall register the lease with the real estate administration department for record within 30 days after the conclusion of the lease contract.

Article 56. Where a house is leased when the land use rights have been obtained through allocation, the lessor shall turn over to the state the proceeds derived from the land in the lease, in accordance with the provisions of the State Council.

Section 5: Intermediary Service Agencies

Article 57. Real estate intermediary service agencies include real estate consulting agencies, real estate price assessment agencies, real estate brokerage agencies and other such agencies.

Article 58. A real estate intermediary service agency shall satisfy the following conditions: (1) have its own name and organizational structure; (2) have a fixed place of business; (3) have the necessary property and funds; (4) have a sufficient number of professional personnel; and (5) other conditions as provided by laws and administrative regulations. The establishment of a real estate intermediary service agency shall apply for registration with the administrative department for industry and commerce and obtain a business license before it may commence business.

Article 59. The state shall implement a qualification management system for real estate price assessors. Real estate price assessors shall pass the qualification examination organized by the relevant department of the State Council and obtain the qualification certificate for real estate price assessors.

Chapter V — Registration of Real Estate Title and Ownership

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Article 60. The state shall implement a system of registration and issuance of certificates for land use rights and building ownership. Where land use rights are obtained through grant or allocation, an application for registration shall be submitted to the land administration department of the local people's government at or above the county level, and the land administration department shall, upon verification, issue the certificate of land use rights. Where a building is constructed on the land used for real estate development in accordance with the law, an application for registration shall be submitted to the real estate administration department of the local people's government at or above the county level based on the certificate of land use rights, and the real estate administration department shall, upon verification, issue the certificate of building ownership. Where real estate is transferred or changed, an application for registration of the change in real estate title shall be submitted to the real estate administration department of the local people's government at or above the county level, and the certificate of land use rights shall be amended based on the changed certificate of building ownership.

Article 61. Where a mortgage is created on real estate, registration shall be completed with the department designated by the local people's government at or above the county level. Where a mortgagee's rights are realized through disposal of mortgaged real estate, the transferee shall complete the registration of the transfer of title with the real estate administration department at or above the county level in accordance with the relevant provisions.

Article 62. Where provinces, autonomous regions or municipalities directly under the Central Government determine that the real estate administration departments and land administration departments of the local people's governments at or above the county level shall issue a unified real estate title certificate, the certificate may be used in lieu of the certificate of land use rights and the certificate of building ownership as provided in Article 60 of this Law.

Article 63. The state implements a unified real estate registration system. The scope of unified registration, the registration authority and the registration measures shall be prescribed by laws and administrative regulations.

Article 64. The laws and administrative regulations on real estate title registration shall be separately formulated by the State Council.

Chapter VI — Legal Liability

Article 65. Where land use rights are obtained through grant without authorization in violation of the provisions of this Law, the land administration department of the people's government at or above the county level shall order the return of the land and confiscate any illegal gains.

Article 66. Where real estate is transferred without authorization in violation of the provisions of this Law, the land administration department of the people's government at or above the county level shall order the payment of the land grant fee, confiscate any illegal gains and may impose a fine concurrently.

Article 67. Where a real estate development enterprise is established and conducts business without having obtained a business license in violation of the provisions of this Law, the administrative department for industry and commerce of the people's government at or above the county level shall order it to cease the relevant business activities and confiscate any illegal gains, and may impose a fine concurrently.

Article 68. Where land use rights obtained through allocation are transferred without authorization in violation of the provisions of this Law, the land administration department of the people's government at or above the county level shall order the payment of the land grant fee, confiscate any illegal gains and may impose a fine concurrently.

Article 69. Where commercial housing is pre-sold without authorization or in violation of the provisions of this Law, the real estate administration department of the people's government at or above the county level shall

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order a cessation of pre-sale activities, confiscate any illegal gains and may impose a fine concurrently.

Article 70. Where a real estate intermediary service agency issues a false real estate price assessment report or commits other fraudulent acts in violation of the provisions of this Law, the real estate administration department of the people's government at or above the county level shall order it to cease the violations and issue a warning, confiscate any illegal gains, and may impose a fine concurrently; where the circumstances are serious, its qualification certificate for real estate price assessment shall be revoked.

Article 71. Where a functionary of a real estate administration department or land administration department neglects his duty or abuses his power, and a crime is constituted, criminal liability shall be pursued in accordance with the law; where a crime is not constituted, administrative sanctions shall be imposed. Where a functionary of a real estate administration department or land administration department takes advantage of his position to extort property from others or illegally accept property from others and seek benefits for others, and a crime is constituted, criminal liability for the crime of bribery shall be pursued in accordance with the Supplementary Provisions on Punishing the Crimes of Embezzlement and Bribery; where a crime is not constituted, administrative sanctions shall be imposed.

Article 72. Where a party refuses to accept an administrative penalty decision, it may apply for administrative reconsideration or institute administrative litigation in accordance with the law within 15 days from the date of receipt of the penalty decision. Where the party neither applies for reconsideration nor institutes litigation within the prescribed time limit, nor complies with the penalty decision, the authority that made the penalty decision may apply to the people's court for compulsory enforcement.

Chapter VII — Supplementary Provisions

Article 73. This Law shall take effect on January 1, 1995. For matters relating to the real estate development and real estate transactions on the state-owned land of urban planning areas within the territory of the People's Republic of China before the implementation of this Law, the relevant provisions of this Law shall apply if such provisions are consistent with the laws, administrative regulations and rules then in force.

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