Urban Real Estate Administration Law of the PRC

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of strengthening the administration of urban real estate, maintaining the order of the real estate market, safeguarding the lawful rights and interests of real estate rights holders, and promoting the healthy development of the real estate industry.

Article 2 — The acquisition of land use rights for real estate development within the State-owned land in the urban planning zones of the People's Republic of China (hereinafter referred to as "State-owned land"), real estate development, real estate transactions, and real estate administration shall be governed by this Law. For the purposes of this Law, "housing" means buildings and structures on land. "Real estate development" means the construction of infrastructure and housing on State-owned land for which land use rights have been obtained in accordance with this Law. "Real estate transactions" includes transfer, mortgage, and lease of real estate.

Article 3 — The State shall implement a compensated, term-limited system for the use of State-owned land in accordance with the law. However, this shall not apply to the allocation of land use rights for State-owned land within the scope prescribed by 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 abide by laws and administrative regulations and pay taxes in accordance with the law. The lawful rights and interests of real estate rights holders shall be protected by law and shall not be infringed upon by any unit or individual.

Article 6 — The State Council shall implement the necessary measures to regulate the real estate market and promote the development of the real estate industry.

Chapter II — Land Use Rights for Real Estate Development

Article 7 — Land use rights may be obtained by means of transfer or allocation. "Transfer of land use rights" means the act whereby the State transfers land use rights to land users for a specified period and the land users pay the land use right transfer fee to the State. "Allocation of land use rights" means the act whereby the people's government at or above the county level approves the land use right to be delivered to the land user for use after the land user has paid compensation, resettlement, and other expenses, or delivers the land use right to the land user free of charge.

Article 8 — Transfer of land use rights for State-owned land within the urban planning zone of a city shall be carried out by the people's government of the city or county in a planned, step-by-step manner. For each piece of land to be transferred, the conditions and requirements for the transfer shall be formulated by the land administration department of the people's government of the city or county in conjunction with the urban planning, construction, and real estate administration departments, and implemented according to the provisions of the State Council.

Article 9 — Land use rights may be transferred by means of agreement, bidding, auction, and listing. Where conditions for bidding, auction, or listing are met in accordance with the provisions of the State, the transfer shall be carried out by means of bidding, auction, or listing.

Article 10 — The maximum term of land use rights transferred shall be determined by the State Council. The maximum terms are: 70 years for residential land; 50 years for industrial land; 50 years for education, science and technology, culture, public health, and sports land; 40 years for commercial, tourism, and recreational land; and 50 years for comprehensive or other land use.

Article 11 — A contract for the transfer of land use rights shall be signed between the land user and the land administration department of the people's government of the city or county. After the land user has paid the full land use right transfer fee in accordance with the transfer contract and registered in accordance with the provisions, the land use right certificate shall be obtained.

Article 12 — A land user shall develop, utilize, and operate the land in accordance with the purposes and conditions set forth in the land use right transfer contract and the urban planning requirements. Where a land user needs to change the land use purpose specified in the contract, it shall obtain the consent of the

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transferor and the approval of the urban planning administrative department, and sign a new land use right transfer contract or an agreement to modify the existing contract, adjust the land use right transfer fee accordingly, and undergo registration of the change.

Article 13 — The land use right transfer fee paid by the land user shall be turned over to the State Treasury and included in the budget for the construction of urban infrastructure and land development. The specific measures for the use and management of the land use right transfer fee shall be prescribed by the State Council.

Article 14 — The State shall not recover the land use rights obtained by land users in accordance with the law before the expiration of the term specified in the transfer contract; under special circumstances, the State may recover the land use rights earlier in accordance with legal procedures for the needs of the public interest, and shall provide corresponding compensation based on the term of use already enjoyed by the land user and the actual conditions of land development and utilization.

Article 15 — Upon expiration of the term of the land use right, the land user may apply for renewal. Where renewal is required, a new contract shall be signed, the land use right transfer fee shall be paid in accordance with the provisions, and registration shall be carried out. Where the land use right for residential land expires automatically, the renewal shall be automatic.

Chapter III — Real Estate Development

Article 16 — Real estate development shall strictly comply with urban planning and shall be carried out in accordance with the principle of integrating economic, social, and environmental benefits, and in a comprehensive, coordinated, and planned manner.

Article 17 — The establishment of a real estate development enterprise shall meet the following conditions: (1) having its own name and organizational structure; (2) having a fixed business place; (3) having registered capital that complies with the provisions of the State Council; (4) having a sufficient number of professional and technical personnel; and (5) other conditions provided by laws and administrative regulations. The establishment of a real estate development enterprise shall apply for registration with the administrative department for industry and commerce. The administrative department for industry and commerce shall, in examining and approving the registration of a real estate development enterprise that meets the conditions, complete the registration within 30 days from the date of receipt of the application.

Article 18 — The registered capital and investment amount of a real estate development enterprise shall be commensurate with the scale of the project investment and shall comply with the relevant provisions of the State. During the development process of a phased real estate development project, the phased investment amount shall be commensurate with the scale of the project and the land use right transfer fee shall be paid in full in accordance with the land use right transfer contract.

Chapter IV — Real Estate Transactions

Section 1 — General Provisions

Article 19 — The transfer or mortgage of real estate shall be registered in accordance with the law. The lease of real estate shall be registered with the real estate administration department for the record. The transfer or mortgage of real estate shall be carried out simultaneously with the transfer or mortgage of the land use right for the land occupied by the housing.

Article 20 — The State shall implement a system for the assessment of real estate transaction prices. Real estate transaction prices shall be assessed by real estate appraisal institutions in a fair and reasonable manner in accordance with the technical standards and appraisal procedures prescribed by the State.

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Article 21 — The State shall implement a system for filing and publicizing real estate transaction prices. Where a real estate right is transferred, the transaction price shall be truthfully declared to the designated department of the local people's government at or above the county level, and shall not be reported falsely or concealed.

Section 2 — Transfer of Real Estate

Article 22 — "Transfer of real estate" means the act whereby a real estate rights holder transfers its real estate to another person through sale, gift, exchange, or other lawful means.

Article 23 — Under any of the following circumstances, real estate shall not be transferred: (1) the land use right has been obtained by means of transfer, but the conditions for transfer of real estate specified in Article 39 of this Law are not met; (2) the real estate title has been sealed or restricted by a judicial organ or an administrative organ in accordance with the law; (3) the land use right has been recovered in accordance with the law; (4) the real estate is jointly owned and the consent of the other co-owners has not been obtained in writing; (5) the ownership of the real estate is in dispute; (6) the real estate has not been registered in accordance with the law and the title certificate has not been obtained; or (7) other circumstances under which transfer is prohibited by laws or administrative regulations.

Article 24 — Where real estate is transferred, a written transfer contract shall be concluded. The transfer contract shall specify the method of obtaining the land use right, the location and area of the real estate, the price, the method of payment, the term of the land use right, and the method of delivery.

Article 25 — Where real estate is transferred, the rights and obligations specified in the land use right transfer contract shall be transferred accordingly. Where the land use right has been transferred, the term of use of the land use right shall be the remaining term after deducting the term of use already enjoyed by the original land user from the term of the land use right transfer contract.

Article 26 — Where a land use right has been obtained by means of transfer, and the real estate development project has been completed with more than 25 percent of the total investment in development, the real estate may be transferred. Where the real estate is transferred, the construction project on the land shall be transferred simultaneously.

Section 3 — Mortgage of Real Estate

Article 27 — "Mortgage of real estate" means the act whereby a mortgagor provides security for the performance of a debt to a mortgagee with its lawful real estate without transferring possession. Where the debtor fails to perform the debt, the mortgagee shall have the right to receive priority payment from the proceeds of the auction or sale of the mortgaged real estate in accordance with the law.

Article 28 — The land use right obtained in accordance with the law and the housing on the land may be mortgaged. The mortgage of real estate shall be registered with the registration authority prescribed by the people's government at or above the county level. The mortgage contract shall take effect from the date of registration.

Article 29 — Where the land use right for a housing is mortgaged, the housing on the land shall be mortgaged simultaneously. Where the housing is mortgaged, the land use right for the land occupied by the housing shall be mortgaged simultaneously. Where a mortgagor fails to mortgage as provided in the preceding paragraph, the unmortgaged property shall be deemed to have been mortgaged simultaneously.

Section 4 — Lease of Real Estate

Article 30 — "Lease of real estate" means the act whereby a real estate rights holder, as lessor, leases the real estate to a lessee for use, and the lessee pays rent to the lessor.

Article 31 — A written lease contract shall be concluded for the lease of real estate. The term of the lease, the use of the real estate, the rent, the responsibility for repair, and other rights and obligations of both

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parties shall be specified in the contract. The lease contract shall be filed with the real estate administration department for registration.

Article 32 — The lease of residential housing shall comply with the rental policies formulated by the State and the local people's government at the place where the housing is located. Where the land use right has been obtained by means of allocation, and the housing built on the land is leased, the land use right transfer fee included in the rent shall be turned over to the State.

Chapter V — Registration of Real Estate Title

Article 33 — The State shall implement a unified registration system for real estate. The scope, institutions, and measures for the unified registration of real estate shall be prescribed by laws and administrative regulations.

Article 34 — Where a land use right is obtained by means of transfer or allocation, an application for registration shall be filed with the land administration department of the local people's government at or above the county level. After verification by the land administration department, the people's government at the corresponding level shall issue the land use right certificate. Where housing is built on the land for which the land use right has been obtained in accordance with the law, an application for registration shall be filed with the real estate administration department of the local people's government at or above the county level with the land use right certificate, and the real estate administration department shall issue the housing title certificate.

Article 35 — Where a real estate is transferred or changed, an application for registration of the change of the real estate title shall be filed with the real estate administration department of the local people's government at or above the county level, and the changed housing title certificate shall be obtained by presenting the housing title certificate before the change. Where a real estate is mortgaged, registration of the mortgage shall be carried out with the registration authority prescribed by the people's government at or above the county level.

Chapter VI — Legal Liability

Article 36 — Where a real estate development enterprise transfers land use rights without authorization and in violation of the provisions of this Law, the land administration department of the people's government at or above the county level shall confiscate its illegal gains and may impose a fine.

Article 37 — Where a real estate development enterprise engages in real estate development without a business license, the administrative department for industry and commerce of the people's government at or above the county level shall order it to cease the real estate development activities, confiscate its illegal gains, and may impose a fine.

Article 38 — Where a real estate development enterprise transfers real estate 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 it to pay the land use right transfer fee, confiscate its illegal gains, and may impose a fine.

Article 39 — Where a person violates the provisions of this Law by illegally transferring land use rights, the land administration department of the people's government at or above the county level shall confiscate the illegal gains and may impose a fine.

Article 40 — Where a state organ functionary neglects his or her duty or engages in malpractices for personal gain in violation of the provisions of this Law in the administration of real estate, and the case does not constitute a crime, he or she shall be subject to administrative sanctions; where the case constitutes a crime, criminal liability shall be pursued in accordance with the law.

Chapter VII — Supplementary Provisions

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Article 41 — The acquisition of land use rights for real estate development on State-owned land outside urban planning zones and the real estate development, transaction, and administration activities involved shall be carried out with reference to this Law.

Article 42 — This Law shall come into force on January 1, 1995.

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