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# LEGAL UPDATE

REVISED DRAFT LAW ON LAND



The Ministry of Natural Resources and Environment recently released the second Draft of the Law on Land (**Second Draft**) to replace the first Draft of the Law on Land (**First Draft**).<sup>1</sup> The Second Draft mainly changes the structure of the chapters and specifies provisions to make it easier to comprehend. This update highlights some significant points of the Second Draft in comparison with the First Draft.

### 1. Land-Use Term of the Investment Projects

The Second Draft removes the "land-use term of investment projects" provision and replaces it with the "adjustment of the project's land use term" provision. The consideration for adjusting the land-use term for investment projects before the expiration of the land-use term must satisfy certain conditions. The adjustment needs to be in conformity with the district-level annual land use plan or scheme. Furthermore, the following information needs to be submitted: a written request for adjustment of the land use term; and a document from the competent authority on the adjustment of the investment project with the change in the project's operation term. Finally, all the environmental conditions prescribed in the environmental regulations must be satisfied.

### 2. Higher Tax Rates

The Second Draft includes higher tax rates for individuals and organisations that have multiple land

areas or houses, speculate with land, delay in using land, or abandon wasteland. Amounts that need to be paid to competent authorities also include additional tax, land rental or land use fee for projects which do not put the land into use or are behind the land-use schedule.

### 3. Exclusions from the Application of the Law on Land

The Second Draft supplements the provision allowing for other regulations besides land regulations to govern the land management and land use aspect. If provisions between the Law on Land and other laws differ, the provisions of the Law on Land shall prevail, except for the implementation of procedures for:

- the auction of land use rights in accordance with the Law on Property Auction; and
- the bidding for projects using land in accordance with the Law on Bidding.

### 4. Auction of Land-Use Rights

The Second Draft has detailed the regulation for the auction of land-use rights and include:

- Land recovered by the State for the implementation of urban projects, rural residential area projects, and commercial housing construction projects (**Projects for Auction**).
- Land allocation, land lease for implementation of Projects for Auction;
- Use of agricultural land, use of non-

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<sup>1</sup> See our legal update: <https://acsvlegal.com/article/draft-law-on-land>



agricultural land other than residential land for implementation of Projects for Auction;

- Use of the land fund managed by the State, the land fund created from the project to create the land fund invested by the State, the land fund recovered by the State when re-arranging and handling the office and non-business operating units, production and business units whose land-attached assets are owned by the state to implement projects using land for the purposes of non-agricultural production, trade or service units; and
- Individuals who are allocated residential land except when land is allocated for resettlement or to people with meritorious services

#### 5. Mortgage of Land-use Rights and Land-attached Assets of Domestic Economic Organisations

The Second Draft has expanded the scope of the subjects eligible for the mortgage of land-use rights and land-attached assets of domestic economic organisations. Specifically, domestic economic organisations that are allocated land by the State with the collection of a land-use levy or leased land with one-off rental payment for the entire lease period can mortgage their land-use rights and assets attached

to the land at credit institutions licensed to operate in Vietnam and at other economic organisations or individuals.

#### 6. Dispute Settlement

Compared with the First Draft, in addition to the People's Court's authority, the Second Draft supplements the jurisdiction of commercial arbitration to settle the disputes between the parties arising from commercial activities related to land.

#### 7. Conclusion

In conclusion, the Second Draft aims to reflect the orientation and development of the State's management over the exploitation, use, and transaction related to the land by various land users, including individuals and organisations under the Law on Investment and the Law on Enterprises. It aims to solve land-related issues that are no longer feasible and develop the market with many expedient solutions. Note that the Second Draft will likely be revised again to improve Vietnam's economic growth and attract more professional, methodical, and financially capable developers to invest in the country.

You can read the entire Second Draft in Vietnamese [here](#).

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