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LEGAL



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# LEGAL UPDATE

NEW LAW ON  
HOUSING IN VIETNAM



In an effort to eliminate various restrictions and establish a more equitable legal framework for homeownership in Vietnam under the 2014 Law on Housing (“**2014 LOH**”), the Ministry of Construction (“**MOC**”) published a draft amendment to the 2014 Law on Housing (“**Draft Law**”) for public consultation on 10 September 2022.

Following numerous rounds of discussions, amendments, and supplementation, the National Assembly of Vietnam officially passed the 2023 Law on Housing on 27 November 2023 (“**2023 LOH**”), thereby replacing the 2014 LOH. The 2023 LOH will take effect on 01 January 2025.

This legal update aims to outline the key provisions and amendments prescribed by the 2023 LOH compared to the previous Draft Law and the 2014 LOH.

### 1. Governing Scope

The 2023 LOH maintains the same governing scope as the Draft Law. Specifically, it addresses the ownership, development, management, use, and state regulation of housing in Vietnam, as well as house transactions other than those conducted by real estate businesses and those relating to future-formed house sale and purchase agreements, which will be regulated under the Law on Real Estate Business.

### 2. Term of Apartment Ownership

Previously, the Draft Law proposed two options for amending apartment ownership terms, as suggested by the MOC: (i) regulating term for apartment ownership, and (ii) non-regulating term for apartment ownership but only regulating term for using apartments as in the 2014 LOH.

Following meticulous deliberation and review, the National Assembly of Vietnam has enacted the 2023 LOH, opting to adopt the second option. This helps reassure apartment owners, especially when more and more people buy and live in apartments.

### 3. Types of land using for commercial house projects

In the deliberations surrounding the Draft Law, the MOC proposed an expansion of the permissible land types for commercial housing projects. However, the 2023 LOH now preserves the regulations outlined in the 2014 LOH pertaining to land use for commercial housing development.

### 4. Detailed regulations and incentives for social houses

#### a. Principles of sale, lease, and hire-purchase of social houses

The 2023 LOH maintains the regulations of the 2014 LOH on a five-year blocking period on resales of social houses. After this defined period, the 2023 LOH allows the sellers to be relieved from the obligation of paying land use fees, save for instances involving the sale of social houses being individual houses. Sellers have to pay personal income tax in accordance with the applicable tax regulations.

#### b. Incentives for investors of social housing projects

To bolster the advancement of social houses, the 2023 LOH has introduced a number of generous incentives targeted towards investors engaging in social housing investment projects funded by private capital as follows:

- Exemption from land use fees and rent: Investors are granted exemption from land use fees and land rent across the entirety of the project’s land area. Additionally, several procedures associated with determining land prices, calculating land use fees, and requesting exemptions from land use fees and rents are waived, streamlining the administrative burden for investors.

- Profit entitlement and land reservation: Investors are entitled to a maximum profit margin of 10% of the total construction investment cost allocated for the social



housing construction area. Furthermore, investors are permitted to reserve a maximum of 20% of the total residential land area within the project scope for service-oriented, commercial, and residential projects.

- Segregation of investment costs: Investors involved in social housing construction projects shall account for their costs separately, ensuring that investment costs allocated to service, commercial, or residential housing endeavors cannot be amalgamated with social housing expenses, and be entitled to the profits generated from the development and operation of service, commercial, and residential housing projects within this designated area.

## 5. Mini apartments regulations

The 2023 LOH promptly addresses recent inadequacies

concerning mini-apartments in major urban centers, with the aim of fulfilling the housing needs of low-income individuals while prioritising security, safety, fire prevention, and social welfare. Accordingly, it implements stringent regulations that individuals who want to build small-sized apartments for sale or rent, comprising buildings with two or more floors, each floor including housing apartments; or structures with two floors and 20 apartments or more, must adhere to the requirements stipulated for investors in housing construction projects. Technical standards for this type of housing will follow the general regulations governing the apartment building. Mini apartments that comply with prescribed requirements as mentioned above shall be granted a certificate of housing ownership for each unit and may be traded on the real estate market in accordance with the provisions outlined in the Law on Real Estate Business and Law on Housing.

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