

## Notable changes of the new law on real estate business

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On November 25 2014, the National Assembly passed the law on real estate business No. 66/2014/QH13 (the New REB Law), which will take effect on July 1 2015 and replace the law on real estate business No. 63/2006/QH11, dated June 29 2006 (the Current REB Law). Below are some of the major changes in the New REB Law:

### Legal capital requirement

It is stipulated under the Current REB Law that organisations and individuals must establish enterprises with legal capital of at least VND6 billion to do real estate business in Vietnam. However, the New REB Law increases this amount nearly fourfold to VND20 billion. Companies doing business in the real estate sector will have one year from July 1 2015 to comply with this legal capital requirement.

### Scope of real estate business that foreign-owned enterprises and overseas Vietnamese are allowed to do in Vietnam

The New REB Law has expanded the scope of real estate business that foreign-owned enterprises and overseas Vietnamese are allowed to do in Vietnam as follows:

- Foreign-owned enterprises:
  - To lease houses and construction works for sub-leasing;
  - In the case of land leased from the state, to invest in the construction of residential houses for the purpose of leasing; and to invest in the construction of houses and construction works other than residential houses for the purpose of sale, lease or grant of hire purchase;
  - To invest in the construction of residential houses on land allocated by the state for the purpose of sale, lease or grant of hire purchase;
  - To receive transfer, in part or in whole, of real estate projects from investors in order to construct houses and construction works for the purpose of sale, lease or grant of hire purchase; and
  - To invest in the construction of houses and construction works on the land leased in industrial zones, industrial complexes, export processing zones, high tech zones or economic zones for trading in accordance with the land use purposes.
- Overseas Vietnamese:
 

Apart from activities similar to foreign-owned enterprises, the overseas Vietnamese are also granted the right to invest in the

construction of houses and construction works on the land leased from organisations, family households or individuals for leasing in strict accordance with the land use purposes. They are also allowed to invest in the construction of houses and construction works on transferred or leased land in industrial zones, industrial complexes, export processing zones, high tech zones or economic zones for trading in strict accordance with the land use purposes.

### Conditions on sale and grant of hire purchase of residential houses to be formed in the future

Pursuant to the New REB Law, before the investor of a real estate project sells or grants hire purchase of residential houses to be formed in the future, the financial obligations of the investor towards its purchasers, where the investor fails to hand over residential houses according to an undertaken schedule, must be guaranteed by a licensed commercial bank.

With regard to the payment schedule applicable for residential houses to be formed in the future, the New REB Law specifies that payment in sale and purchase or hire purchase of real estate to be formed in the future may be made in instalments, in which:

- The first instalment must not exceed 30 percent of the contractual price.
- The following instalments must comply with the schedule for construction of real estate but the total amount must not exceed 70 percent of the contractual price if the house has not been handed over to the purchaser. In case the investor is a foreign-owned enterprise, such amount is capped at 50 percent of the contractual price.
- If a purchaser or hire purchaser has not been issued with a certificate on land use rights for a house and assets attached to the land, then the investor must not collect more than 95 percent of the contractual price.

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