

# Special Alert

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## Key Updates on Vietnam's New Residential Housing Law 2023

### Key Takeaways

- Requirements for property developers have been updated to align with the new Law on Real Estate Business and the new Land Law.
- New incentives to attract developers of social housing.
- Developers must disclose the investment costs for building car parking lots.
- "Mini-apartments" will be granted House Ownership Certificates if they meet certain legal conditions.

On 27 November 2023, the National Assembly of Vietnam passed the new Residential Housing Law No. 27/2023/QH15 (the "**Housing Law 2023**"), which will take effect on 1 January 2025, replacing the Residential Housing Law 2014 (the "**Housing Law 2014**"). This legal update introduces several key features that impact property developers in the private sector, particularly regarding residential properties.

### Requirements for Developers of Property Investment Projects

An enterprise may become a property project developer if it meets the following requirements:<sup>1</sup>

- The enterprise is leased or allocated land from the State through winning a selection bid for investors in a land-use project or an auction for land use rights.
- The enterprise has obtained investment approval along with the investor approval when it

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<sup>1</sup> Article 36, the Housing Law 2023.

holds land use rights to the land applicable for property investment projects or through agreements on receiving land use rights. This aligns with the new Land Law 2024, which specifies that investors can only apply agreements on receiving *residential land*, not other types of land. Holders of *residential and other types of land* may propose property projects if these projects align with land use planning and are approved for a change in land use purpose.<sup>2</sup>

Additionally, developers must also meet the general conditions:<sup>3</sup>

- Have equity under real estate business laws to conduct each investment project. Specifically, the developer must have the equity capital of at least 20% of the total investment for projects less than 20 hectares, or at least 15% for projects of 20 hectares or more, and must be capable of mobilizing funds for project development.<sup>4</sup>
- Have land use rights for each type of property project or have been allocated or leased land under the Land Law.
- Have sufficient capacity and experience in developing property projects.

## Incentives to Attract Developers of Social Housing

The Housing Law 2023 expands eligibility for social housing to two new groups:<sup>5</sup>

- Students in universities, academies, higher education institutions, colleges, vocational education and training facilities, and public ethnic boarding schools. This group is permitted to lease housing during their study period.<sup>6</sup>
- Enterprises, cooperatives, and joint cooperatives in industrial parks. This group is entitled to worker accommodation in industrial parks to house workers of those entities under sub-leases.<sup>7</sup>

The Housing Law 2023 introduced incentive mechanisms for developers of social housing projects:

- Developers are exempt from land use fees and land rent for the project land and are not required to conduct certain procedures such as determining land value, calculating land rent, or land use fees from which they have been exempt.<sup>8</sup>

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<sup>2</sup> Article 122.3(b), the Land Law 2024.

<sup>3</sup> Article 35.2, the Housing Law 2023.

<sup>4</sup> Article 9.2(c), the Law on Real Estate Business 2023.

<sup>5</sup> Article 76, the Housing Law 2023.

<sup>6</sup> Articles 76.10 and 77.6, the Housing Law 2023.

<sup>7</sup> Articles 76.11 and 77.7, the Housing Law 2023.

- Developers are eligible for a maximum profit of 10% of the total investment for the area in which social housing is built,<sup>9</sup> and are allowed to reserve up to 20% of the residential land area within completed infrastructure projects for developing services or commercial products.<sup>10</sup>
- Developers may separately record expenditures and revenues, must not include the investment costs of service or commercial products in the pricing of social housing, and may retain all revenues generated by service or commercial properties.<sup>11</sup>

These incentives are expected to attract real estate developers to invest in social housing projects in Vietnam.

## Granting Ownership Certificates for “Mini-apartments”

“Mini-apartments” often refer to houses with multiple storeys that are separated into rooms or small apartments inside for sale or lease to buyers/tenants, and are commonly owned by households or individuals. Mini-apartments are not specifically provided in the Housing Law 2014. Under the Housing Law 2023, mini-apartments are defined as:

- Houses of at least 2 storeys where each storey accommodates dwelling units designed and built for sale, lease-purchase, or a combination of sale, lease-purchase, and lease.
- Houses of at least 2 storeys and at least 20 dwelling units for lease.<sup>12</sup>

Mini-apartments must satisfy the following requirements:<sup>13</sup>

- Construction requirements under regulations of the Minister of Construction.
- Fire prevention and firefighting requirements under the law on fire prevention and fighting.
- Requirements regarding roads for firefighting facilities stipulated by provincial People’s Committees.

Apartments or dwelling units in mini-apartments will be granted ownership certificates in accordance with land laws and will be allowed to trade under the law on real estate business.<sup>14</sup>

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<sup>8</sup> Article 85.2(a), the Housing Law 2023.

<sup>9</sup> Article 85.2(c), the Housing Law 2023.

<sup>10</sup> Article 85.2(d), the Housing Law 2023.

<sup>11</sup> Article 85.2(d), the Housing Law 2023.

<sup>12</sup> Article 57.1, the Housing Law 2023.

<sup>13</sup> Article 57.3, the Housing Law 2023.

## Apartment Use Term

Under the Housing Law 2014, the use term of an apartment building depends on the level of construction work and the quality inspection conclusion of the provincial housing management agency where the apartment building is located.<sup>15</sup> The new Housing Law 2023 provides that the duration of apartment use will be determined based on the design dossiers and the actual useful life of apartment buildings, as specified in the written appraisal by authorities in accordance with construction laws.<sup>16</sup> The commencement of the apartment use term will begin on the date the apartment building is officially used.<sup>17</sup>

## Other New Regulations

The Housing Law 2023 introduces several new regulations:

- Developers must disclose the investment costs for building car parking lots. Areas for charging electric motor vehicles, if provided, must conform to construction standards and regulations.<sup>18</sup>
- If the management board of apartment buildings terminates its operations without a new board being recognized, the provincial People's Committees where apartment buildings are located will assume the responsibilities of the management board until the new one is recognized.<sup>19</sup>
- If apartment buildings generate revenue from providing services related to common ownership, such revenue must be deposited into the maintenance fund account for the maintenance of the apartment buildings.<sup>20</sup>
- For apartment sale and purchase contracts, the contract must specify the duration of use of the apartment building.<sup>21</sup>

Please stay updated with us for any developments in Vietnam's new residential housing law and its guiding documents. Should you have any questions or comments, please feel free to reach out to us.

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<sup>14</sup> Article 57.2, the Housing Law 2023.

<sup>15</sup> Article 99.1, the Housing Law 2014.

<sup>16</sup> Article 58.1, the Housing Law 2023.

<sup>17</sup> Article 58.2, the Housing Law 2023.

<sup>18</sup> Article 143, the Housing Law 2023.

<sup>19</sup> Article 148, the Housing Law 2023.

<sup>20</sup> Article 153, the Housing Law 2023.

<sup>21</sup> Article 163, the Housing Law 2023.

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