



Special Alert

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Construction Rules Are Relaxed under the Amended Construction Law

On 17 June 2020, the National Assembly has passed Law No. 62/2020/QH14 amending and supplementing a number of articles of the 2014 Law on Construction (the “**Amended Construction Law**”). The Amended Construction Law will be effective from 1 January 2021, except for a number of articles which will enter into force on 15 August 2020. The Amended Construction Law is expected to consolidate regulations across different specialized laws, and reduce administrative procedures for investors. The key points are addressed below.

Consistency with laws on advertisement, public – private partnership, public investment, land, investment, housing, master planning

The Amended Construction Law redirects to related laws for regulation of investment projects that consist of public investment or public – private partnership. Construction projects for advertisement purposes will no longer be directly regulated by the Amended Construction Law. The Amended Construction Law has also been modified to ensure consistency with specialized laws.

Entities who decide to invest will be responsible to organize appraisal of the Construction feasibility study or the Construction investment economic-technical reports

In addition to investment projects that are subject to laws on public investment and public – private partnership projects (the “**PPP Project**”), other projects will be appraised by professional bodies of entities who approve investments, or agencies able to make appraisals appointed by the entities who approve the investments. A number of construction projects will be appraised for basic design by specialized construction authorities. Projects required to prepare construction investment economic-technical reports that are special-grade construction works, grade-1 construction works, construction

works that greatly affect the landscape, environment and safety of the community will no longer be appraised by specialized construction authorities but solely by the entities who approve the investments. The Amended Construction Law also places responsibility for determining the appraisal content in the hands of either the specialized construction authorities or the entities who approve the investments. This regulation will be effective from 15 August 2020.

Investors will be able to submit appraisal dossiers simultaneously to both specialized construction authorities and entities who approve the investment

Investors will now be able to submit appraisal dossiers simultaneously to both specialized construction authorities and entities who approve the investment, as well as other state authorities for projects that require fire prevention and fire fighting, environmental protection and national defense guarantees. With regard to procedure to obtain opinions on fire prevention and fire fighting designs for basic design dossiers, investors can submit to specialized construction authorities using the single window mechanism.

Timeline for appraisal of construction feasibility study reports of construction projects that are not public investment projects and projects that are required to prepare a construction investment economic-technical report

The previous timeline for appraisal of Construction feasibility study reports of Group A, Group B, and Group C projects will only be applicable to projects that are public investment projects. For projects that are not public investments and projects that are required to prepare a construction investment economic-technical report, the timeline will be decided by the authorities who approve the investment, with the timeline for appraisal of basic designs by specialized construction authorities (if required) not exceeding 35 days for group A projects, 25 days for group B projects, and 15 days for group C projects.

Investors are responsible to organize appraisal of construction design implemented after basic design

Investors will now be responsible to conduct appraisal procedures for construction design implemented after basic design, with an exception of:

- (a) construction works using public investment capital;
- (b) construction works using state capital outside of public investment within group B or higher, or construction works that may greatly impact the community safety and benefits;
- (c) construction works of PPP Projects; and
- (d) construction works that may greatly impact community safety and benefits within the area without urban construction planning, functional area construction planning, or rural residential area construction detailed planning.

Previously, specialized construction authorities and professional bodies of authorities who approved

investments were in charge of the appraisal procedures.

Investors will appraise the FEED design for EPC contracts; technical design for 3-step design; construction drawing design for 2-step design; other design steps after basic design for multiple step design in accordance with international customs.

More construction projects exempted from construction permit

The following construction projects will be exempted from a construction permit:

- (a) State-secret construction works; emergency construction works;
- (b) Works belonging to a construction investment project funded by public investment and approved by the Prime Minister, the head of a central agency of a political organization, the Supreme People's Procuracy, the Supreme People's Court and the State Audit Office, the President's Office, the National Assembly Office, ministries, ministerial-level agencies, agencies of the Government, central agencies of the Vietnam Fatherland Front and socio-political organizations, Chairman People's Committees at all levels who decide on investment;
- (c) Temporary construction works, including: (i) temporary construction works to serve for construction of main works; and (ii) temporary construction works to use for the purpose of organizing events or other activities within a limited timeframe set by the district-level People's Committee or the provincial People's Committee;
- (d) Works for repairing or renovating internal works or repairing or renovating exterior surfaces not adjacent to roads in urban areas with architectural management requirements prescribed by competent state agencies; contents of repair or renovation do not change the function of use, do not affect the safety of bearing structures of the works, in accordance with construction plans already approved by competent state agencies, requirements on environmental protection and safety against fire and explosion;
- (e) Advertising construction works that are not subject to construction permits as prescribed by law on advertisement passive telecommunications technical infrastructure works under the Government's regulations;
- (f) Construction works in two or more provinces, works built along non-urban routes in accordance with construction plans or plans of a technical or specialized nature already approved by competent state agencies;
- (g) Construction works which have been notified by construction specialized agencies of results of appraisal of construction designs after basic designs that are eligible for approval for construction designs and satisfying construction licensing conditions as elaborated in accordance with the law;
- (h) Individual houses with a scale of under seven storeys belonging to urban construction investment projects, housing construction investment projects with 1/500 detailed planning approved by competent state agencies; and
- (i) Grade-IV construction works, individual houses in rural areas with a scale of under seven storeys and in areas without urban planning, functional area construction plans or detailed

construction plans on construction of rural population quarters and that have been approved by competent state agencies; individual houses in mountainous areas and islands in areas without urban planning or functional area construction planning; except for individual constructions and houses built in conservation areas, historical-cultural relics.

This new rule will take effect from 15 August 2020.

Investors are permitted to continue use of construction works for which the term has expired in case the construction plan has not been performed

Construction works whose construction permits have expired can be used after such expiry in case the construction plan has not been performed, and will only be dismantled in case competent authorities issue a land revocation decision.

Provincial People's Committee to be in charge of issuance of construction permit for construction works erected upon such province, including special-grade construction works

The Ministry of Construction will no longer be responsible for issuing the construction permits for special-grade construction works. The respective provincial People's Committee will be authorized to issue the construction permit for construction works erected in its province, with the exception of III-grade and IV-grade construction works, as well as residential individual housing, which are to be issued by the respective district-level People's Committee. This provision will come into force from 15 August 2020.

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