

Real estate business law 2023 and Housing Law 2023

The National Assembly approved the Housing Law 2023 on November 27, 2023 which took effect from January 1, 2025. Key changes/amendments are summarized in the table below.

Regulation	Housing Law 2014	Housing Law 2023	Effect
Land for social housing development	Developers must reserve 20% of the land area of their commercial housing projects to develop social housing projects.	The Provincial People's Committee decides whether developers reserve land area inside their commercial projects for social housing or arranges the land in other locations or pay money equivalent to the value of the social housing land area.	Decentralize authority of land allocation for social housing to provinces. Developers have more options in developing social housing.
Subjects eligible for social housing support policies		Add enterprises and cooperatives in industrial parks, etc.	Expand the social housing market, attract more social housing developers
Conditions to be eligible for social housing support policies	<ul style="list-style-type: none"> - Not own a house in province/city where there are social housing projects or own a house but its average area per capita is lower than the minimum - Have permanent or temporary residence for more than 1 year in province/city where there are social housing projects - Do not pay personal income tax 	<ul style="list-style-type: none"> - Not own a house in province/city where there are social housing projects or own a house but its average area per capita is lower than the minimum - Eliminate permanent or temporary residence condition - Meet income requirement as regulated 	Expand the social housing market, attract more social housing developers
Incentives for social housing developers		Add rights to develop commercial housing projects and provide commercial services up to 20% of the social housing project area but must pay land use fees for this area. Developers can separate this area with social housing projects and enjoy all profits from this commercial service business.	Increase profit for social housing developers and attract more social housing developers
Worker housing		New regulation	Strengthen the management of the State
Individual's multi-storey and multi-condo houses (mini apartments)		<ul style="list-style-type: none"> - Individual who wants to build mini apartments for sale or rent must meet the conditions of being a real estate developer. - Mini apartments must meet construction requirements issued by the Ministry of Construction - Mini apartments are eligible to be issued certificates (pink book) and can be sold or leased 	Strengthen the management of the State and ensure the rights of buyers

Comment: Among the changes/amendments mentioned above, we think that the regulations which allow developers of commercial housing projects to build social housing in other locations or pay money equivalent to the value of the social housing land area, and separate commercial housing and commercial services projects with social housing projects have the most positive impacts in removing difficulties for developers. However, the Law takes effect from January 1, 2025, so in 2024 developers may continue to encounter difficulties in developing social housing projects.

In general, the revised Housing Law focuses on promoting social housing and worker housing projects by removing difficulties in accessing land bank, expanding subjects eligible for social housing support policies, reducing conditions to be eligible for social housing support policies and increasing incentives for developers, etc. which have a positive impact on all real estate companies, especially social housing developers. These changes/amendments support the Government to achieve its goal of building 1 million social houses by 2030, solve social welfare issues and remove difficulties for developers. However, in reality, we believe that accessing to preferential credit sources and administrative reforms related to project approval and inspection, etc. are also very important in the development of social housing. Thus, assessing actual impacts of the revised Housing Law on these companies needs to wait for specific guidance from legal documents to be issued later.

The Real Estate Business Law 2023 was approved on November 28, 2023 and will take effect from January 1, 2025. Key changes/amendments between 2023 version and 2014 version are presented in the table below.

Regulation	Real Estate Business Law 2014	Real Estate Business Law 2023	Effect
Publish information about real estate projects	No requirement about time	<ul style="list-style-type: none"> - Publish information before selling projects - Add detailed information: approval in principle, land allocation decision, etc. 	Protect rights of buyers and create positive consumer sentiment
Conditions of organizations and individuals doing real estate businesses	Enterprises must have legal capital of no less than VND20bn.	<ul style="list-style-type: none"> - Eliminate minimum legal capital requirement - Add more conditions: enterprise is not banned/temporarily suspended from business operations, not undergoing bankruptcy procedures; ensure the ratios of debt to equity and corporate bonds to equity; Equity is not lower than 20% of total investment capital for projects under 20 ha or not lower than 15% for projects over 20 ha, etc. 	Limit developers with weak financial status from participating in the market
Subjects allowed to do real estate business		Add Vietnamese people residing abroad who are Vietnamese citizens (with Vietnamese nationality) and are allowed to enter Vietnam are allowed to do real estate business like local citizens.	Attract foreign capital to the real estate market
Transfer all or part of a real estate project	<ul style="list-style-type: none"> - Seller has land use right (LUR) certificate - In case buyer is a foreign enterprise, after the transfer permit is issued, the seller returns the land to the State and then the State allocates the land to the buyer. 	<ul style="list-style-type: none"> - Seller has land allocation decision, complete financial obligations related to the land including land use fee, land rent, etc. without requiring LUR certificate. - In case buyer is a foreign enterprise, after the transfer permit is issued, the procedure must be carried out in accordance with regulations related to land. 	Tighten conditions of a project transfer. Wait for the Land Law to regulate transactions with foreign enterprises.
Housing projects formed in the future		<ul style="list-style-type: none"> - Add a regulation that developers are not allowed to collect deposits of over 5% of selling prices - Add a regulation that developers must complete financial obligations related to the land including land use fee, land rent, etc. before selling projects 	<ul style="list-style-type: none"> - Developers may face more difficulties in raising capital from home buyers. However, if developers use other terms such as 'Business cooperation contract' instead of 'Deposit contract', they may not be affected by this regulation. - Protect rights of buyers and create positive consumer sentiment
Transfer LUR certificate in a real estate project that has completed infrastructure to individuals to build their own house		Add new regulation: not allowed in special, Tier 1, 2, and 3 urban areas.	Tighten land lot selling activities, limit land speculation activities, reduce abandoned projects.
Regulate the real estate market		New regulation. The State regulates the real estate market by adjusting land use plans, financial and credit policies, tax policies, etc.	Strengthen the control and management of the State

Comment: In general, the above changes/amendments mainly increase rights of home buyers, strengthen consumer sentiment in the real estate market which was heavily affected by Van Thinh Phat case and corporate bond violations. Developers with weak financial status or focusing on land lot projects will face more difficulties. However, tightening regulations for real estate businesses will help the market develop more transparently and stably in the long term.

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