

THE LAW AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE LAND LAW

(No.10/1998/QH10 December 2, 1998)

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam;

This Law amends and supplements a number of articles of the Land Law, which was adopted on July 14, 1993 by the National Assembly of the Socialist Republic of Vietnam.

Article 1.- To amend and/or supplement a number of articles of the Land Law.

1. Article 1 is amended and supplemented as follows:

“Land is under the entire people’s ownership and uniformly managed by the State.

The State assigns land to economic organizations, people’s armed force units, State agencies, political and social organizations (hereafter collectively referred to as organizations), households and individuals for stable and long-term use in forms of land assignment without collecting land use levy and land assignment with land use levy. The State also leases land to organizations, households and individuals. Organizations, households and individuals that are assigned or leased land by the State or are transferred the land use right from others shall be collectively referred to in this Law as land users.

The State leases land to foreign organizations and individuals”.

2. Article 3 is amended and supplemented as follows:

“1. The State protects the legitimate rights and interests of the land users.

2. Organizations, households and individuals that are assigned or leased land by the State or are transferred the land use right from others shall have the rights and obligations of land users as provided for by this Law and other provisions of law.

3. Households and/or individuals that are assigned land by the State shall be entitled to exchange, transfer, lease, bequeath and/or mortgage the land use right.

4. The rights and obligations of land users shall be effected only during the land assignment or lease term and for the right use purpose for which the land is assigned or leased according to this Law’s provisions and other provisions of law”.

3. Article 19 is amended and supplemented as follows:

“The bases for making decisions to assign or lease land:

1. The land use planning and/or plans which have already been approved by the competent State agency(ies);

2. The land use demand stated in the economic-technical studies and designs which have already been approved by the competent State agencies or in applications for land assignment or lease”.

4. Article 20 is amended and supplemented as follows:

“The State assigns land to organizations, households and individuals for stable and long-term use.

The duration of land assignment for stable and long-term use shall be 20 years for annual plants growing or aquaculture and 50 years for planting of perennial trees. Upon the expiry of such duration, if the land users wish to continue using the land and during the use duration they have strictly abided by the land legislation, they shall be assigned such land by the State for continued use.

The State assigns land for long-term use to households and individuals for the construction of residential houses and shall recover such land only in circumstances specified in Articles 26 and 27 of the Land Law.

The duration of land assignment for stable and long-term use regarding other land categories shall be prescribed by the Government.

The land lease duration shall be determined according to projects already approved by the competent State agencies but must not exceed 50 years; for projects that need a longer land lease duration, the Government shall base itself on the National Assembly Standing Committee’s regulations to determine the lease duration for each project, which, however, must not exceed 70 years”.

5. Article 22 is amended and supplemented as follows:

“The State shall assign land without collecting land use levy in the following cases where:

1. Households and individuals, that are directly engaged in agricultural, forestrial, aquacultural or salt production and earn their living mainly with revenues from such production activities, are certified by the People’s Committees of communes, wards or townships and use the land for agricultural, forestrial, aquacultural or salt production within the land limits

assigned by the State.

Households using agricultural land in excess of the prescribed limits before the effective date of this Law shall be entitled to continue using the excess land acreage for a duration equal to a half of the land assignment duration and shall have to pay additional tax on such land area as prescribed by law; Upon the expiry of such duration, it shall have to rent such land. For land acreage used in excess of the prescribed limit after the effective date of this Law, the land user shall have to rent such land;

2. Organizations that use land for planting and protection of protective forests and special-use forests;

3. State agencies, political organizations, socio-political organizations and people's armed force units that use land to build their working offices or for national defense or security purposes;

4. State agencies, political organizations, socio-political organizations, people's armed force units that use land to build projects in non-business economic, cultural, social, scientific, technical or diplomatic fields and sectors.

5. Organizations that use land for such public-utility projects as roads, bridges, sewers, pavement, water supply and drainage systems, rivers, lakes, dikes, dams, schools, hospitals, markets, parks, flower gardens, entertainment centers for children, squares, stadiums, airports, sea/river ports and other public-utility projects as prescribed by the Government".

6. To add following Article 22a:

"1. The State assigns land with the collection of land use levy in the following cases where:

a) Households and/or individuals wish to use land for residential house construction;

b) Economic organizations invest in the construction of residential houses for sale or lease;

c) Economic organizations invest in the building of infrastructure projects, then transfer or lease the right to use land associated with such infrastructure projects;

d) Land is assigned with the collection of land use levy in a number of cases in order to generate capital for infrastructure construction according to projects decided by the Government.

2. The assignment of land with the collection of land use levy stipulated in Point d, Clause 1 of this Article must ensure the following conditions:

a) The land users have feasibility projects which have already been approved by the competent State agency(ies);

b) The land is used according to the planning;

c) The land users have sufficient capital and technical conditions.

The money collected from the land assignment or from the construction of projects, which are equivalent to the assigned land use right value, must be fully accounted into the State budget as prescribed by law".

7. To add following Article 22b:

"The State shall lease land in the following cases:

1. Economic organizations use land for production and/or business activities according to projects already approved by the State competent agency(ies), except for State enterprises currently using land for agricultural, forestial, aquacultural or salt production, which has been assigned by the State before the effective date of this Law, such State enterprises shall not have to rent such land.

The State shall recover land already assigned to State enterprises for use in the agricultural, forestial, aquacultural or salt production, which has, however, not been used or has been used for wrong purposes or inefficiently, to assign or lease it to others in accordance with provisions of this Law;

2. Households and/or individuals have the need to use land for production and/or business activities;

3. Households and/or individuals have the need to use land belonging to the 5%-public land fund in communes, wards and townships; the land lease term for cases effected before the effective date of this Law shall comply with the land lease contracts, if they are effected after the effective date of this Law, the land lease term shall not exceed 5 years".

8. To add following Article 22c:

"1. Organizations, households and/or individuals that are assigned or leased land by the State with the collection of land use levy or land rental shall be entitled to land use levy or land rental exemption or reduction in the following cases:

a) Execution of projects in fields eligible for investment preferences;

b) Execution of investment projects in geographical areas with difficult or especially difficult socio-economic conditions;

c) Implementation of the policy on residential houses and land;

d) Other cases prescribed by law.

2. The Government shall specify the land use levy or land rental exemption or reduction".

9. To add following Article 78a:

"1. Households and/or individuals that are leased

land by the State and pay annual land use levy shall have the rights:

a) To mortgage properties under their ownership which are associated with the leased land, at Vietnamese credit institutions so as to borrow capital for production and/or business activities according to provisions of law;

b) To transfer the properties under their ownership which are associated with the leased land; the property transferees shall be continually leased land by the State and have the rights provided for in this Clause.

2. Households and/or individuals that have been leased land by the State and have paid land rental for the whole land lease term shall have the rights:

a) To mortgage the value of the right to use the leased land and the properties under their ownership, which are associated with the leased land during the lease term, at Vietnamese credit institutions so as to borrow capital for production and/or business activities as provided for by law;

b) To transfer the right to use the leased land together with their properties associated therewith, or bequeath the right to use the leased land during the lease duration as provided for by law. The persons who are transferred or inherit the right to use the leased land shall have the rights provided for in this Clause;

c) To contribute capital in form of the value of the right to use the leased land together with their properties associated therewith during the lease term for the production and/or business cooperation with organizations and/or individuals in the country as prescribed by law;

d) To sub-lease the land use right during the land lease term. The sub-lease of the land shall be effected only when such land is subject to investment projects or applications for land lease, and the sub-lessees shall have to use the land for right purpose(s).

3. Households and/or individuals that have been leased land by the State and have paid land rental in advance for many years, if the remaining land lease duration for which the land rental has been paid still lasts for at least 5 years, shall be entitled to the rights provided for in Clause 2 of this Article”.

10. To add following Article 78b:

“1. Domestic organizations which are assigned land by the State without collecting land use levy shall have the right to use the land for the assigned purpose(s), but shall not be entitled to exchange, transfer, lease the land use right, to mortgage or contribute capital with the land use right value, except for cases prescribed in Clause 2 of this Article.”

2. Economic organizations which are assigned land

by the State without collecting land use levy for use in agricultural, forestrial, aquacultural or salt production shall be entitled to mortgage their properties associated with the right to use such land at Vietnamese credit institutions so as to borrow capital for production and/or business activities; shall be entitled to contribute capital with the land use right value for production and/or business cooperation with Vietnamese and foreign organizations and individuals for continued use of such land for the purposes of agricultural, forestrial, aquacultural or salt production, or expansion of processing industry or services, in order to develop production according to the Government’s regulations”.

11. To add following Article 78c:

“Economic organizations which are assigned land by the State with land use levy shall have the rights:

1. To transfer the right to use the land associated with architectural works or infrastructure projects already built thereon;

2. To lease the right to use the land associated with the architectural works or infrastructure projects already built thereon;

3. To mortgage the land use right value at Vietnamese credit institutions in order to borrow capital for production and/or business activities according to provisions of law;

4. To contribute capital with land use right value together with their properties associated with such land for production and/or business cooperation with Vietnamese and/or foreign organizations and individuals according to provisions of law”.

12. To add following Article 78d:

“1. Economic organizations which are assigned land by the State and pay annual land rental shall have the rights:

a) To mortgage their properties associated with the leased land at Vietnamese credit institutions so as to borrow capital for production and/or business activities according the provisions of law;

b) To transfer their properties associated with the leased land; the property transferees shall be continually leased such land by the State and enjoy the rights provided for in this Clause;

c) For State enterprises, to contribute capital with the leased land use right value for production and/or business cooperation with Vietnamese and/or foreign organizations and individuals in accordance with the Government’s regulations.

2. Economic organizations which have been leased land by the State and have paid the land rental for the

whole lease term shall have the rights:

a) To mortgage the land use right value and their properties associated with the leased land during the lease term at Vietnamese credit institutions so as to borrow capital for production and/or business activities according to provisions of law;

b) To transfer the right to use the leased land together with their properties associated with the leased land during the lease term according to the provisions of law. The land use right transferees shall be entitled to the rights provided for in this Clause;

c) To contribute capital with the value of the right to use the leased land during the lease term together with their properties associated with the leased land for production and/or business cooperation with Vietnamese and foreign organizations and/or individuals according to provisions of law;

d) To sub-lease the land use right during the lease term. The sub-lease shall be effected only when such land is put under investment projects and the sub-lessees shall have to use such land for right purpose(s).

3. Economic organizations which have been leased land by the State and have paid land rental for many years, and the remaining land lease duration for which the land rental has been paid still lasts for at least 5 years, shall be entitled to the rights provided for in Clause 2 of this Article”.

13. To add following Article 78e:

“The procedures for exercise of the rights of organizations, households and individuals as provided for in Articles 78a, 78b, 78c and 78d of this Law shall be filled in at the competent State agency(ies) as prescribed by law”.

14. To add following Article 78f:

“Economic organizations that have been transferred the lawful land use right from others or assigned land by the State with the collection of land use levy which does not derive from the State budget, shall not have to rent such land. Such organizations shall be entitled to the rights provided for in Article 78c of this Law.

In cases where an economic organization is transferred with the right to use the agricultural or forestry land together with the land use purpose(s) already allowed by the competent State agency(ies), the land use term shall be calculated according to the duration of the concerned project approved by the competent State agency(ies) but must not exceed 50 years”.

Article 2.-

1. The Ordinance on the rights and obligations of

the domestic organizations with land assigned or leased by the State, which was adopted on October 14, 1994 by the National Assembly Standing Committee; and the Ordinance on the amendments and supplements to a number of articles of the Ordinance on the rights and obligations of domestic organizations with land assigned or leased by the State which was adopted on August 27, 1996 by the National Assembly Standing Committee shall cease to be effective as from the effective date of this Law.

2. This Law takes effect from January 1st, 1999.

3. The Government shall amend and supplement the documents detailing the implementation of the Land Law to make them compatible with this Law.

This Law was passed on December 2, 1998 by the Xth National Assembly of the Socialist Republic of Vietnam at its fourth session.

**National Assembly Chairman
NONG DUC MANH**