

LEGAL UPDATE (February 28th, 2022)

In this issue, we would like to bring to your attention to the following:

- Regulations on the implementation of some articles of the Law on real estate business in Decree No. 02/2022/ND-CP.
- Regulations on registration fees specified in Decree No. 10/2022/ND-CP.

1. Regulations on the implementation of some articles of the Law on Real estate business specified in Decree No. 02/2022/ND-CP

On January 6th, 2022, the Government enacted a Decree No. 02/2022/ND-CP guiding the implementation of the Law on Real Estate Business 2014, which will take effect from March 1st, 2022 (hereinafter referred to as “**Decree 02/2022**”) with the following notable points:

a. Real estate businesses must disclose information

Decree 02/2022 clearly stipulates that the enterprise information must be publicized on the enterprise's website, at the headquarters of the Project Management Board, and at real estate trading floors, including:

- Information about the enterprise: Name, head office address, phone number, name of the legal representative;
- Information about real estate put into business;
- Information on the mortgage of houses, construction works, real estate projects put into business (if any);
- Information on the quantity and type of real estate products to be traded, the quantity and type of products sold, transferred, or lease purchased; the rest are in business.

b. Abolishing the legal capital of real estate enterprises:

Decree 02/2022 abolishes regulations on legal capital in Decree 76/2015/ND-CP, and at the same time supplements regulations on the equity level of real estate project

investors based on the scale of land use as well as the method of determining the level of equity.

Specifically, the investor must have equity of not less than 20% of the total investment capital for projects with a land use scale of fewer than 20 hectares, not less than 15% of the total investment capital for projects having a land-use scale of 20 hectares or more. The determination of equity is based on the results of the most recent audited financial statements or the results of independent audit reports of the operating enterprise (made in the year or the preceding year). In the case of a newly established enterprise, the equity capital shall be determined according to the actually contributed charter capital as prescribed by law.

c. Supplementing new conditions when buying and selling housing projects formed in the future

Decree 02/2022 stipulates the transfer of purchase and sale contracts lease-purchase of houses in the future and transfer of lease-purchase contracts houses and construction works (except for social housing purchase and sale contracts) must ensure the following conditions:

- There is a contract of sale, lease purchase as prescribed. If the parties sign before March 1st, 2022, there must be a signed contract;
- Must not have applied the application for a certificate of land use right;
- Purchase and sale contracts, lease and purchase contracts without disputes or lawsuits; houses and works in the contract shall not be distrained, mortgaged, unless it's agreed by the mortgagee;
- If purchasing, selling, or leasing and purchasing more than one house in the same contract but the parties want to transfer each house, the seller must agree with the investor to amend the purchase and sale contract, lease purchase or sign contract addendum before transferring contract..

d. Applying the general contract form when doing real estate business

One of the notable new points is that a series of real estate business activities will must follow the forms in Decree 02/2022/ND-CP, including 08 forms of real estate business contracts related to the sale of real estate, transfer, lease, lease purchase, sublease real estate, transfer real estate projects.

Decree 02/2022/ND-CP takes effect from March 1st, 2022.

2. Regulations on registration fees in Decree No. 10/2022/ND-CP

On January 15th, 2022, the Government enacted a Decree 10/2022/ND-CP with many notable matters on registration fees (hereinafter referred to as “**Decree 10/2022**”).

a. New regulations on the basis and calculation of registration fees

Accordingly, Decree 10/2022 supplements new regulations on the basis and method of calculating the specific registration fee at point c, Clause 1, Article 7 of the Decree.

- + Determining the basis for calculating registration fee for multi-storey having multi-family houses and apartment buildings. Accordingly, the registration fee will include the allocated land value. The allocated land value is determined by the price in the Land Price List issued by the People's Committees of the provinces and cities under the central government following the allocation coefficient.
- + Supplementing a basis for calculating the fee before a new car or motorbike is generated, but at the point of submission of the previous declaration, there is no price list for calculating the fee, the tax authority will base it on the type of vehicle (with cars, motorcycle); manufacture country, brand, the volume of goods allowed to be transported in traffic (trucks); manufacture country, brand, number of people allowed to carry, including driver (passenger car) to decide the price to calculate the registration fee for each new type.

b. New regulations on registration fee exemption cases

One of the remarkable contents of Decree 10/2022 is that it has added two more cases of registration fee exemption.

- Exemption from the registration fee for properties related to the family that has been granted a Certificate when re-registering ownership and use rights. When a husband and wife purchase, sell, donate or inherit a house or land, they must pay a registration fee (0.5%) like other incomes and is only exempt from personal income tax. However, according to Decree 10/2022, when husband and wife consolidate property or divide property after divorce according to a legally effective court judgment or decision, they are all eligible for exemption from fees.
- Exemption from registration fee when the Certificate has been lost, torn, stained, smudged or damaged. If an organization or individual with a Certificate applies for re-issuance because the old Certificate is lost, torn, stained, smudged or damaged, the registration fee will be exempted. Therefore, the organization, an individual, when carrying out procedures for re-issuance of Certificate of

ownership and use rights in this case will not need to declare and complete registration fee exemption procedures (while the old regulations were individuals, the organization must have a proposal).

c. Supplemental registration fee level

Decree 10/2022 supplements the calculation of registration fees for battery-electric cars. The registration fee for battery-electric cars is 0% for 3 years from March 1st, 2022. After that, the registration fee when buying a battery-powered electric car equals 50% of the fee charged for a gasoline or diesel-powered car with the same number of seats. For paying 02 times or more, the rate is 2%.

Decree 02/2022/ND-CP takes effect from March 1st, 2022.

We hope this Monthly Newsletter would bring you useful information.

Best regards.

Contributor(s):**Mr. DINH QUANG LONG****Director cum Managing Partner****M** (+84) 919 963 977 | **E** long.dinh@apolatlegal.com**Mr. DAO TRUNG THONG****Associate****M** (+84) 988 787 285 | **E** thong.dao@apolatlegal.com**Mrs. LE HOANG BAO YEN****Paralegal****M** (+84) 962122072 | **E** yen.le@apolatlegal.com

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Contacts:

HO CHI MINH CITY (Head office)

5th Floor, IMM Building
99-101 Nguyen Dinh Chieu, District 3
Ho Chi Minh City, Vietnam

THE BRANCH IN HA NOI CITY

Room A8, 29th Floor, East Tower, Lotte Center
54 Lieu Giai, Cong Vi Ward, Ba Dinh District
Hanoi City, Vietnam

Tel: +84-28-3899 8683

Email: info@apolatlegal.com

Website: www.apolatlegal.com

SINGAPORE (Affiliated office)

#26-10, SBF Center,
160 Robinson Road
Singapore 068914

Tel: +84-93-2014 986

Email: info@apolatlegal.com

Website: www.apolatlegal.com

Scan QR code:

