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REPORT ON MAIN IMPORTANT REVISIONS IN LAND LAW 2013

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REPORT ON

Main important revisions in Land law 2013

Land law is an important act, which has wide impacts on politics and socio-economics of the country. In november 29th 2013, revised land law was approved by the 6th session of the 13th National Assembly.

Revised land law has 14 chapters with 212 articles, with 7 chapters and 66 articles larger than land law of 2003.

National Assembly-approved land law is a marking event for reforms in land policies to serve the need for socio-economic development in Vietnam with focus in industrialization and modernization, market-based economy oriented to socialism, international integration and national political and social stability.

This is a meticulous and serious law making project based on summarizing and assessing implementation of land law 2003, investigating suitable international experiences; and institutionalizing opinions and orientation for reforms in land policies and law obeying the Resolution No. 19-NQ-TW, the 11th Central committee of the communist party; and representing for people's will and expectation.

1. Main important revisions

9 important revisions in land law are summarized as below:

(1) Further regulate rights and responsibilities of Governments, guarantee of Government for land users; rights and obligations of land users in objects, land use forms, and conditions for implementation of land users' rights.

(2) Further complete land policies and law for agricultural sector with aims for strengthening agricultural and rural industrialization and modernization; guarantee targets of national food security and environmental protection by regulations in extension of duration for agricultural land allocation within the norm up to 50 years, extension of norm for agricultural land use transfer for households and individuals; strictly regulate regimes for management and use of paddy and forest lands.

(3) Focus on land quality and reforms in land use planning and plan to match requirements for land administration at administrative levels, and better exploit land resource. Law regulated in details association between land use

planning and plan and other plannings and plans in sectors, fields and localities; regulated bases and contents for land use planning and plan at each level, especially annual district land use plan as basis for land recovery, allocation, lease and change of land use purposes.

(4) Strengthen land relationships in market mechanism towards elimination of subsidizing in land administration and use. In specific, law regulated in narrowing cases for state land allocation and fundamental transfer to land lease; implement auction mechanism for land use rights in land allocation with land use fees and land lease; land valuation in accordance with market mechanism under state management; regulated in specific organization responsible for building, land price appraisal and consultancy on land price determination.

(5) Further complete mechanism for mobilizing sources from land by regulation for active state land recovery as land use plan; create budget for land development, 'clean land budget' for land use right auction; extend objects of once-paid land lease for leasing period. Regulation about conditions for state land allocation and lease for investment project and strong sanctions for non-use and delay after land allocation and lease. It helped selecting investors of sufficient ability and solving overextended, wasted and ineffective land allocation and lease in passed time. Supplement and completion of regulations for land use regimes in industrial zones, high-tech and economic areas, and underground construction to satisfy requirements for national socio-economic development.

(6) Strengthen open, transparency and democracy in land administration and use by regulations for crucial and mandatory state land recovery; mandatory land registration and electronic land registration; legal framework for land information, database, and rights to access to land information; people's participation and state's duties in explaining for land use planning and plan, land recovery, compensation, support resettlement, resettlement arrangement, job training and transfer, assist job seeking; supervising land administration and use by citizen-assigned agencies, citizen and monitoring and evaluating system for land administration and use at both national and local levels.

(7) Establish equality in access to land, implementation of land use rights and obligations between domestic and foreign investors in accordance with integration requirements and investment attraction. Domestic and foreign investors are equal in getting land allocation and lease; extend rights for receiving capital transfer by mean of land use right value of foreign-invested enterprises, rights for receiving land use right transfer in house developing projects of foreign-resident Vietnamese in scope of house ownership in Vietnam as regulated by law on housing.

(8) More focus on guarantee of land use right for vulnerable groups such as woman, poor and minority ethnic groups by regulations about state's duties in residential, agricultural land for minority ethnic groups; regulations about new issuance and reissuance of land use right certificate (LURC), ownership of house and other assets attached to land in case land use right is the sharing asset of husband and wife; regulated about policies for exemption and reduction of land use / lease fees for the poor and ethnic people.

(9) Contents are regulated in laws, especially ones related to rights and interests of land users such as land recovery, compensation, support, resettlement, issuance of certificate of land use right and ownership of houses and other assets attached to land.

2. Revised contents after recommendations

Adapted to recommendations of international organizations and donors for revision of land law, National Assembly-approved land law has seriously considered and accepted following main contents:

(1) In land recovery, compensation, support and resettlement

Revised land law has regulations towards guarantee of principles of open, transparency and democracy in land recovery by regulations in cases for state land recovery, process and procedure for land recovery, compensation, support and resettlement after state land recovery as below:

- In specific, regulated crucial and necessary cases for mandatory state land recovery for national defence and security; land recovery for socio-economic development for national and public interests obeying regulation in Article 54, the (revised) constitution.

Land law of 2013 regulated cases for state land recovery for socio-economic development based on "aimed for national and public interests"; land recovery by State for projects is based on meaning and importance of projects in socio-economic development for national and public interests without discrimination of economic components.

- More strict and narrower regulations about cases for state land recovery for socio-economic development for national and public interests (only requisite land in projects decided by National Assembly for investment guideline, or projects accepted and decided by Prime Minister for investment, and in some cases approved by provincial People's Committee).

- Regulated about process and procedure for land recovery for national defence and security; socio-economic development for national and public interests; principles, conditions, process and procedure for enforcement of decision on compulsory inventory and decision on land recovery to support

localities in united implementation.

- Regulated about compensation price calculated not based on land price table but based on specific land price decided by provincial People's Committee at time of decision for land recovery.

- More specific, clearer and further regulated about guarantee of livelihoods for land users who have their land acquired by supports after state land recovery such as assistance for stabilizing lives and production; support training, transfer and create jobs; support resettlement for land recovery along with house moving and some other supports.

As regulated by law, provincial People's Committee is responsible to organize and implement training, transferring job, assisting job seeking for agricultural and residential-business land users who have their land acquired, and approve solutions for compensation, support and resettlement.

- If resettlement is required after land recovery, provincial and district People's Committees are responsible to build and implement resettlement projects before land recovery. Infrastructure in concentrated resettlement areas shall be built synchronously with construction norms and standards, and in accordance with regional and local conditions and custom. Land recovery shall only be implemented after construction of house or infrastructure for resettlement areas.

- Supplement of regulations about dealing with delay in compensation by state mistakes and land users who have their land acquired to secure duties of state agencies in mission implementation as well as strengthen consciousness of citizen to obey law.

(2) In strengthening protection of land use rights for farmers -

- *Regulations about decentralizing supervision of transfer of paddy land use purposes are supplemented in law as:*

- + Article 58, land law regulated: Prime minister shall approve transfer of land use purpose for paddy land larger than 10 ha, provincial People's Committee shall approve transfer of land use purpose for paddy land smaller than 10 ha to replace for regulation about transfer of land use purpose for paddy land shall be reported to Prime Minister;

- + Article 134, land law regulated: Government shall build policies to protect paddy land and prevent transfer paddy land to other use purposes; State shall build policies to support and invest for infrastructure, exploit modern science and technologies for paddy land planning with high productivity and quality; paddy land users shall responsible for improving and fertilizing land; users who get state land allocation / lease for non-agricultural purposes shall pay

certain amount of money for supplementing paddy land areas or strengthening effectiveness of paddy land use by State;

- *Regulations about extension of duration for agricultural land use for households and individuals:*

Recommendations about stable and long-term agricultural land use allocation for households and individuals are similar to residential land. Regarding this issue, the (revised) land law regulated about united extension of duration for agricultural land allocation for households and individuals from 20 up to 50 years for all agricultural lands..

- *Regulations about creating good conditions for land accumulation of households and individuals:*

The (revised) land law regulated about permission of households and individuals to transfer land use right with larger area (not larger than 10 times norm of agricultural land allocation). At the same time, land accumulation is encouraged by mechanism for capital contribution by land use right value and land lease right. Thus, they are favourable for the application of science and technology, mechanization and development of good production.

(3) In issuing LURC(s) and protecting rights and interests of land users

Regarding recommendations about LURC(s) shall only be requisited after notice to influenced land users: the Land law revised and supplemented regulations about cases for correcting issued LURC(s) and cases for requisition of LURC(s) by State to protect rights and interests of land users.

(4) In establishing a transparent and effective land governance system

- *Establish land governance with citizen participation:*

The (revised) land law strengthened citizen participation in promulgation of decisions related to land administration and use as below:

- More comprehensively supplemented regulations about agencies responsible for consulting, form and time of consulting for land use planning and plan (Article 43);

- In specific, regulated about citizen meeting for direct consultation about solutions for compensation, support and resettlement in case of state land recovery; and announcement of approved solutions for compensation, support and resettlement;

- Regulated about citizen supervision of land administration and use (Article 199). Citizen has the rights to supervise and complaint violations in land administration and use on his own or by representatives.

- *Establish transparent land administration:*

+ The (revised) land law supplemented a new chapter about land

information system and database. It regulated duties of State in construction and provision of land information including construction and management of land information system and guarantee of rights of organizations and individuals in access to land information system; duties to timely and public notice of land information for organizations and individuals, and notice of administrative land decisions and actions for organizations and individuals with legal influenced rights and interests.

+ Regulated about principles for land valuation based on legal land use purposes at time of valuation; land use term; in accordance with common market price for type of land with similar transferred land use purposes, or income from land use, or winning price of land use right in places where land use rights are in auction; at one period of time, adjacent land parcels with same land use purposes, beneficial, and income from land use shall have equivalent price. Land price frame and table are built in basis of every five years and adjusted when market changes.

Supplement regulations about agencies in charged of building, land valuation, and status of land price consultancy in land valuation as well as hiring consultants for specific land valuation.

+ Better checked and regulated about announcement of land use planning and plan; list of projects with land recovery; approved solutions for compensation, support and resettlement. Duties for summarizing, receiving and explaining citizen's recommendations for land use planning and plan to submit to appraisal council are also regulated; authorized state agencies after receiving recommendations of citizens or their representatives in supervising land administration and use shall verify, deal with, and response by legal documents in their jurisdiction or transfer to proper authorized state agencies if cases are not under their jurisdiction, and notice of final results to relevant organizations and individuals; duties for dialogue in case disagreement is made by citizens after consultancy for compensation, support and resettlement.

- Land registration by land users and people get land allocation are mandatory for administration; first registration and change registration are supplemented; land registration shall be made in paper, and electronic registration was supplemented to have equivalent legal value; cases for registration are noted in cadastral book, if no LURC is issued, land shall be temporarily used until later state decisions.

- Strengthen monitoring, supervision and assessment of National Assembly, People's committees at various levels, Vietnam fatherland front, its subordinate agencies and citizens in land administration and use. National Assembly, People's committees at various levels, Vietnam fatherland front and its

subordinate agencies implement their rights to supervise land administration and use as regulated by constitution and law on supervision of National Assembly, law on organization of People's Council, People's Committee and law on Vietnam fatherland front.

Monitoring and evaluation system for land administration and use are regulated to assess implementation of land law, effects of land administration and use, and impacts of land policies and law on socio-economics and environment at both national and local levels.

(5) Land use policies for disadvantaged group

- Sharing land use right in marriage:

Recommendations are made to regulate about names of both husband and wife are written on certificate of land use right and ownership of houses and other assets attached to land (law on revision and supplement of some articles in Investment law eliminated this regulation in the land law 2003).

Regarding mentioned issues, the (revised) land law regulated names of both husband and wife are written on certificate(s) if land use right is the sharing asset; if issued certificate(s) with only name of either husband or wife, new certificate(s) are able to reissue with names of both husband and wife (if required) (Clause 4, Article 98).

- Land use policies for minority ethnic groups

Duties of state in residential and agricultural land for minority ethnic groups are regulated (Article 27); rights of minority ethnic groups in land use obeying policies for support residential and production land by State is only transferred or donated after 10 years from the time of land allocation by State to keep supported land budget and protect stable life and production (Clause 3 Article 192); households and individuals in minority ethnic groups are prioritized objects in land allocation / lease for production with remaining land budget after land checking and planning in farm and afforestation yards (Article 123).

- Exemption and reduction of land use / lease fees

Cases for exemption and reduction of land use / lease fees for households and individuals in minority ethnic and poor groups are regulated