

Building & Construction Law

The revised Construction Law (the Law), which was passed in June this year, provides new and strict management mechanisms applicable to construction projects funded with state capital.

The 168-article Law also includes many provisions facilitating the participation of all economic sectors in construction activities.

Stricter control of construction projects

The Law establishes a principle that construction projects with different funding sources must be managed by different methods.



It provides five organizational forms of project management in Article 62. Accordingly, regional or specialized project management units must be set up for state-funded projects. Meanwhile, individual project management units can be established for state-funded projects involving special-grade works or applying high technology, or for defense or security projects involving state secrets.

Management units can be hired for projects using non-state funds or projects with peculiar characteristics.

For small renovation or repair projects and projects with community participation, their owners can use the existing specialized sections to manage these projects' implementation.

Regional and specialized project management units are new forms of management which will help reduce the number of project management units, save management costs and raise management capacity.

Construction projects are also subject to greater control by state management agencies and the community under Articles 8, 57, 82 and 98 of the Law.

To improve the control of construction quality, the Law requires specialized construction agencies to increase supervision of the whole process of construction, from project formulation, design, pre-acceptance test to handover of completed construction works.

The Law clearly defines powers and responsibilities of state management agencies in charge of construction for issuing and guiding construction rules and standards, and appraising construction investment projects and base and construction designs. Appraisal activities of specialized construction agencies must be conducted in a public, transparent and time-bound manner.

The Law makes new provisions on requirements on work performance in construction investment activities, insurance for construction investment, and capability conditions of construction organizations and individuals.

Provisions on adjustment of projects, total investment capital and investment estimates are also stricter.

Regarding construction contracts, the Law's provisions are in line with international practices and applicable to construction investment projects of all funding sources. These provisions have been designed in a way to protect the interests of contractual parties, ensure equality between the parties and prevent occurrence of complicated disputes.

Policies to encourage construction activities

The Law encourages domestic and foreign organizations and individuals to study and apply advanced construction technologies, use new building materials to save energy, natural resources and protect the environment. They will be provided with favorable conditions for conserving and promoting the values of historical, cultural and religious relics and heritages, building social housing and carrying out construction activities under planning in mountainous and other areas with difficult socio-economic conditions.

The Law assures that those engaged in construction activities are treated equally before law, regardless of their economic sectors. Priority will be given to contractors that have been conferred with construction quality awards by the Vietnamese State when participating in construction bidding.

Some public services currently performed by state management agencies in construction activities will be step by step transferred to qualified socio-professional organizations, the Law states.

Construction licensing

The Law devotes a separate chapter, Chapter V, to dealing with construction licensing. Under this Chapter, the state management of construction order is performed through public and transparent licensing procedures according to one-stop-shop mechanism.

Compared to the current law, the Law adds specific provisions on cases in which construction licenses are exempted in Clause 2 of Article 89. These cases include construction works of industrial park, export-

processing zone and hi-tech park projects with their detailed 1:500 scale plans already approved by competent authorities and construction designs appraised in accordance with this Law; and houses under urban or housing development projects which have fewer than seven stories, a total floor area of under 500 m² each, and approved detailed 1:500 scale plans.

The Law specifies responsibilities of related agencies to ensure public, transparent and simple administrative procedures for construction licensing.

Under Article 104, licensing agencies must publicly post up, explain and guide the regulations on construction licensing. They must grant construction licenses strictly according to the procedures and within the time limit specified in Article 102.

The Ministry of Construction, provincial- and district-level People's Committees are competent to grant construction licenses. Under the current law, People's Committees at all levels have this competence.

International cooperation

Under Article 11, domestic organizations and individuals are encouraged to expand international cooperation in construction investment activities, transfer of technologies, technical and management experiences and use of new materials.

The Law stipulates that the Vietnamese State protects Vietnamese construction brands overseas. The State also encourages and promotes the signing and implementation of treaties and agreements concerning construction investment between Vietnamese and foreign organizations and individuals on the basis of conformity with the principles set out in this Law.

The Law will take effect on January 1, 2015, and supersede the 2003 Construction Law and Article 1 of the 2009 Law Amending and Supplementing a Number of Articles of Laws Concerning Capital Construction Investment.