

THE MINISTRY OF JUSTICE

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom - Happiness

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THE MINISTRY OF
NATURAL RESOURCES
AND ENVIRONMENT

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Hanoi, June 13, 2006

JOINT CIRCULAR

GUIDING THE NOTARIZATION AND AUTHENTICATION OF CONTRACTS AND DOCUMENTS ON EXERCISE OF LAND USERS' RIGHTS

Pursuant to the November 26, 2003 Land Law;

Pursuant to the Government's Decree No. 181/2004/ND-CP of October 29, 2004, on the implementation of the Land Law;

Pursuant to the Government's Decree No. 17/2006/ND-CP of January 27, 2006, amending and supplementing a number of articles of the decrees guiding the implementation of the Land Law, and Decree No. 187/2004/ND-CP on transformation of state companies into joint-stock companies;

Pursuant to the Government's Decree No. 75/2000/ND-CP of December 8, 2000, on notarization and authentication;

Pursuant to the Government's Decree No. 62/2003/ND-CP of June 6, 2003, defining the functions, tasks, powers and organizational structure of the Justice Ministry;

Pursuant to the Government's Decree No. 91/2002/ND-CP of November 11, 2002, defining the functions, tasks, powers and organizational structure of the Ministry of Natural Resources and Environment;

The Justice Ministry and the Ministry of Natural Resources and Environment hereby jointly guide the notarization and authentication of contracts and documents on exercise of land users' rights respectively by the notary bureaus and the People's Committees of communes, wards or district townships as follows:

I. GENERAL ISSUES

1. Regulation scope

1.1. This Circular guides the notarization by the notary bureaus and the authentication by the People's Committees of communes, wards or district townships of the following contracts and documents:

a/ Contracts on exchange, assignment, donation, rent or sublease of land use rights; contracts on mortgage of land use rights, contracts on mortgage of land use rights of a third party, which are called by the Land Law as guarantee with land use rights (called contracts on mortgage of land use rights); contracts on capital contribution with land use rights; testaments on bequeathal of land use rights, documents on division of land use right inheritance, documents on receipt of inheritance of land use rights in cases where receivers are sole heirs (hereinafter referred to as contracts and documents on land use rights);

b/ Contracts on purchase, sale, rent, donation or mortgage of assets attached to land; contracts on capital contribution with assets attached to land; testaments on bequeathal of assets attached to land; documents on division of inherited assets attached to land; documents on receipt of inherited assets attached to land in cases where receivers are the sole heirs (hereinafter referred to as contracts, documents on assets attached to land);

c/ Contracts on mortgage of assets to be formed in the future, which will be attached to land;

d/ Contracts and documents on land use rights and assets attached to land;

e/ Contracts on mortgage of the land use rights and future assets which will be attached to land.

The contracts and documents mentioned at Items a, b, c, d and e of this Point 1.1 shall be hereinafter referred to as contracts and documents on immovable property.

1.2. The certification of contracts and documents on immovable property in industrial parks, economic zones or hi-tech parks shall comply with the guidance at Point 2.3, Clause 2, Point 5.2 of Clause 5, Clause 6 of Section I and Clause 4 of Section II of this Circular.

2. Notarization and authentication of contracts and documents on immovable property

2.1. Contracts and documents on immovable property, of which the owners are domestic organizations, overseas Vietnamese, foreign organizations or individuals shall be notarized at notary bureaus.

2.2. For contracts and documents on immovable property of which the owners are households or individuals, such households or individuals may select forms of notarization at notary bureaus or authentication at the People's Committees of communes, wards or district townships where exists the immovable property.

2.3. Contracts and documents on immovable property in industrial parks, economic zones or hi-tech parks shall be certified at Management Boards of such industrial parks, economic zones or hi-tech parks (hereinafter called Management Boards).

3. Contracts and documents on immovable property

3.1. The parties entering into contracts or establishing documents on immovable property may compile by themselves or request notary bureaus or People's Committees of communes, wards or district townships, or Management Boards to compile such contracts or documents.

3.2. The contents of contracts or documents on immovable property shall not violate the provisions of law, shall not be contrary to the social ethics.

3.3. The compilation of contracts or documents on immovable property may be done with reference to forms of contract and document promulgated together with this Circular.

4. Responsibilities of the parties entering into contracts or establishing documents on immovable property

Parties entering into contracts or establishing documents on immovable property shall bear responsibility for:

4.1. The legality of the papers they produce;

4.2. The compliance with the principles on entry into contracts or establishment of documents under the provisions of the civil law.

5. Responsibilities of public notaries, presidents or vice-presidents of People's Committees of communes, wards or district townships

5.1. When making notarization or authentication, public notaries or presidents or vice-presidents of People's Committees of communes, wards or district townships shall bear responsibility for:

a/ The time and place of notarization or authentication;

b/ The civil act capacity of the parties entering into contracts or establishing documents on immovable property at the time of notarization or authentication;

c/ The non-violation of legal provisions and/or non-contradiction to the social ethics by the contents agreed upon by the parties in the contracts or the contents of the documents on immovable property;

d/ The signatures of the parties entering into contracts or establishing documents on immovable property.

5.2. When making certification, heads of Management Boards shall bear the same responsibilities as public notaries, presidents or vice-presidents of People's Committees of communes, wards or district townships mentioned at Point 5.1 of this Clause.

6. Responsibilities of land use right registration offices

Land use right registration offices of provincial/municipal Services of Natural Resources and Environment, land use right registration offices of the district Sections of Natural Resources and Environment, the district Sections of Natural Resources and Environment where land use right registration offices have not yet been set up (hereinafter called land use right registration offices) shall have to provide land-related information services at the request of public notaries, presidents or vice-presidents of People's Committees of communes, wards or district townships or heads of Management Boards.

II. PROCEDURES AND ORDER OF NOTARIZATION OR AUTHENTICATION OF CONTRACTS OR DOCUMENTS ON IMMOVABLE PROPERTY

1. Dossiers of request for notarization or authentication of contracts or documents on immovable property

1.1. A valid dossier of request for notarization or authentication shall comprise:

a/ A card requesting the notarization of contract or document (Form No. 01/PYC) or a card requesting the authentication of contract or document (Form No. 31/PYC);

b/ The copy of the people's identity card or passport; the copy of the paper proving the competence of the representative (if it is a representative);

c/ The copy of the land use right certificate granted under the 1987 Land Law, the 1993 Land Law or the 2003 Land Law; the copy of the residential house ownership and land use right certificate granted under the Government's Decree No. 60/CP of July 5, 1994, the copy of the residential house ownership and land use right certificate granted under the provisions of law on housing (hereinafter referred to as land use right certificates);

Within the time limits provided for in Article 184 of the Government's Decree No. 181/2004/ND-CP of October 29, 2004, on the implementation of the Land Law, if current land users have not yet possessed land use right certificates, they must have the copy of one of the land use right papers specified in Clauses 1, 2 and 5 of Article 50 of the Land Law; where the land users are named in the land registration books or cadastral books, there must be written certifications (copies) of the People's Committees of communes, wards or district townships where exists the land.

d/ The contract or document on immovable property.

1.2. In addition to the papers mentioned at Point 1.1 of this Clause, depending on each specific case, a dossier of request for notarization or authentication shall be added with one or all of the following papers:

a/ The copy of the household registration book, for case of being transferred the rights to use agricultural land or being assigned, donated the rights to use residential land or agricultural land in strictly restricted areas, ecological regeneration areas of special-use forests or protective forests;

b/ The written application for separation or consolidation of land plots, for cases of exercising the land users' rights to parts of land plots;

c/ The copy of the death certificate of the estate leaver, the papers proving the relations between the estate leaver and the heir, if it is the heir at law.

The copy of the testament or death certificate of the estate leaver, if it is the testamentary heir while the testament does not clearly determine the estate portion of each heir;

The copy of the death certificate of the estate leaver, the papers proving the relations between the estate leaver and the heir who is the sole heir;

d/ The copy of the residential house ownership certificate granted under the provisions of law on housing, the residential house ownership certificate and the construction work ownership certificate granted under the Government's Decree No. 95/2005/ND-CP of July 15, 2005 (hereinafter referred to collectively as certificates of ownership over assets attached to land), for cases where assets are attached to land and the owners of such assets sell, lease, inherit, donate, mortgage or contribute capital with, such assets;

e/ The written certification of the paid land use levies or the paid land use right transfer money, which do not originate from the state budget, for cases where the land use right transferers are economic organizations which have been allotted land by the State with the collection of land use levies; economic organizations leased land by the State with the annual rent paid for many years; economic organizations leased land by the State before July 1, 2004, and having already paid the land rents for the whole lease terms or paid the land rents in advance for many years while the remaining paid land rent term is at least five years;

f/ The copy of the construction permit or the investment project already approved by the concerned competent state body, for case of mortgage of future assets, which, under the provisions of law, must be granted construction permits or must have investment projects.

1.3. Notary bureaus and People's Committees of communes, wards or district townships must not demand the notarization or authentication requesters to submit any additional papers outside the dossiers of request for notarization or authentication, which are mentioned at Points 1.1 and 1.2 of this Clause.

2. The order of notarization of contracts, documents on immovable property

2.1. The notarization requesters shall each submit a set of dossiers of request for notarization and produce the originals thereof for comparison; the notary bureaus shall receive and check the dossiers of request for notarization.

Where an immovable-property owner does not have the land use right certificate but has one of the land use right papers specified in Clauses 1, 2 and 5, Article 50 of the Land Law or the land use right certificate of which the contents are variant with the actual land use situation, the notary bureau must send the cards of request for supply of cadastral information (Form No. 03/PYCCC) to the land use right registration office to request the supply of information on the land plots. Where there are signs showing that land use right certificates have been modified or forged, if deeming it necessary, the notary bureaus shall send the requesting cards (Form No. 03/PYCCC) to the land use right registration offices to request the supply of information on the land plots. The duration of supplying the information on the land plots by the land use right registration offices shall not be counted into the notarization time limits mentioned at Point 2.4 of this Clause.

2.2. Where the dossiers of request for notarization are valid, the notary bureaus shall make entries into the contract, transaction notarization books (promulgated together with the Justice Ministry's Circular No. 03/2001/TP-CC of March 14, 2001, guiding the implementation of the Government's Decree No. 75/2000/ND-CP of December 8, 2000, on notarization and authentication) and make the notarization. In case of being unable to make notarization within the day of receiving the dossiers, the notary bureaus shall make entries into the contract, transaction notarization books and write the appointment tickets (Form No. 02/PH) and hand them to the notarization requesters.

If the dossiers are invalid or the immovable-property owners are detected as failing to fully satisfy the conditions for exercise of the law-prescribed rights of the real estate owners when the notarization requests

are processed, the notary bureaus shall return the dossiers and clearly notify in writing the reasons therefor to the notarization requesters.

2.3. For cases of notarization of documents on division of inheritance estates, documents on receipt of inheritance estates, the post-up time limit shall be 30 days for the division of inheritance estates and receipt of inheritance estates and shall not be counted into the notarization time limits mentioned at Point 2.4 of this Clause.

2.4. The specific time limits for notarization of contracts or documents on immovable property shall be as follows:

a/ Within the day of receiving the dossiers, for contracts or documents on immovable property, if the notarization applicants are households or individuals; if the dossiers of notarization request are submitted after 15:00 hrs., the notarization shall be carried out within the following working day; in cases where contracts or documents involve complicated circumstances, such time limit shall not exceed three (3) working days after the full receipt of valid dossiers;

b/ Within five (5) working days after the full receipt of valid dossiers for contracts or documents on immovable property of domestic organizations, overseas Vietnamese, foreign organizations or individuals; in case of mortgage contracts, it shall not exceed three (3) working days after the full receipt of valid dossiers.

3. The order of authentication of contracts or documents on immovable property

3.1. The authentication requesters shall each submit a set of dossiers of request for authentication and produce the originals thereof for comparison; the judicial-civil status officials of communes, wards or district townships shall receive and check the dossiers of request for authentication.

Where immovable-property owners have no land use right certificates but one of the land use right papers specified in Clauses 1, 2 and 5, Article 50 of the Land Law or have land use right certificates but the land use situation has changed compared to the contents of such land use right certificates, the cadastral officers of communes, wards or district townships must certify the information on the land plots. In cases where there are signs showing that the land use right certificates have been modified or forged, if the verification is needed, People's Committees of communes, wards or district townships shall send the requesting cards (Form No. 33/PYCCC) to land use right registration offices to request the supply of information on the land plots. The duration for supply of information on the land plots by land use right registration offices shall not be counted into the notarization time limits mentioned at Point 3.4 of this Clause.

3.2. Where the dossiers of request for authentication are valid, the judicial-civil status officials of communes, wards or district townships shall make entries into the contract, transaction authentication books (Form No. 61/SCT) and submit them to the presidents or vice-presidents of People's Committees of communes, wards or district townships to sign for authentication of contracts or documents on immovable property. Where it is unable to give authentication on the day of receiving the dossiers, the judicial-civil status officials of communes, wards or district townships shall make entries into the contract, transaction authentication books and issue the appointment tickets (Form No. 32/PH) to the authentication requesters.

If the dossiers are invalid or the immovable-property owners are detected upon the handling of authentication requests as having not fully satisfied the conditions for the exercise of their rights according to the provisions of law, judicial-civil status officials of communes, wards or district townships shall return the dossiers and notify in writing the authentication requesters of the reasons therefor.

3.3. For cases of authenticating documents on decision of inheritance estates, documents on receipt of inheritance estates, the post-up time limit of 30 days for the division of inheritance estates or receipt of inheritance estates shall not be counted into the authentication time limit mentioned at Point 3.4 of this Clause.

3.4. The authentication of contracts, documents on immovable property shall be carried out on the day of receiving the dossiers; if the dossiers of request for authentication are submitted after 15:00 hrs., the authentication shall be carried out on the following working day at the latest; where contracts or documents involve complicated circumstances, the authentication time limit shall not exceed three (3) working days after the full receipt of the valid dossiers.

3.5. The collection, remittance and use management of authentication charges and fees by People's Committees of communes, wards or district townships shall comply with the provisions of law on charges and fees.

4. Procedures and order of certifying contracts, documents on immovable property in industrial parks, economic zones or hi-tech parks

The procedures and order of certifying contracts or documents on immovable property at Management Boards shall comply with the guidance mentioned in Clauses 1 and 2 of this Section, whereby heads of Management Boards shall perform the job of public notaries.

III. ORGANIZATION OF IMPLEMENTATION

1. This Circular shall take effect 15 days after its publication in "CONG BAO."

Promulgated together with this Circular are the following forms of cards, contracts, documents on immovable property (not printed herein).

1.1. Forms to be used by notary bureaus:

Form No. 01/PYC Card of requesting the notarization of contracts and documents.

Form No. 02/PH The appointment ticket

Form No. 03/PYCCC Card of requesting the supply of cadastral information

Form No. 04/PCC The cadastral information supply ticket

Form No. 05/HDCD The contract on exchange of agricultural land use rights of households, individuals

Form No. 06/HDCN The contract on assignment of land use rights and the assets attached to land

Form No. 07/HDCN The contract on assignment of land use rights

Form No. 08/HDMB The contract on trading of assets attached to land

Form No. 09/HDMB The contract on trading of condominium apartments

Form No. 10/HDTA The contract on donation of land use rights and assets attached to land

Form No. 11/HDTA The contract on donation of land use rights

Form No. 12/HDTA The contract on donation of assets attached to land

Form No. 13/HDTA The contract on donation of condominium apartments

Form No. 14/HDT The contract on hiring land use rights and assets attached to land

Form No. 15/HDT The contract on hiring land use rights

Form No. 16/HDT The contract on hiring assets attached to land

Form No. 17/HDT The contract on renting condominium apartments

Form No. 18/HDTC The contract on mortgage of land use rights and assets attached to land

Form No. 19/HDTC The contract on mortgage of land use rights

Form No. 20/HDTC The contract on mortgage of assets attached to land

Form No. 21/HDTC The contract on mortgage of condominium apartments

Form No. 22/HDGV The contract on capital contribution with land use rights and assets attached to land

Form No. 23/HDGV The contract on capital contribution with land use rights

Form No. 24/HDGV The contract on capital contribution with assets attached to land

Form No. 25/HDGV The contract on capital contribution with condominium apartments

Form No. 26/HDUQ The contract on authorization

Form No. 27/DC The testament

Form No. 28/VBPC The document on division of inheritance estates

Form No. 29/VBN The document on receipt of inheritance estates

Form No. 30/VBTC The document on relinquishment of succession

1.2. Forms to be used by People's Committees of communes, wards or district townships:

Form No. 31/PYC The card of request for authentication of contracts and documents

Form No. 32/PH The appointment ticket

Form No. 33/PYCCC The ticket of request for supply of cadastral information

Form No. 34/PCC The cadastral information supply card

Form No. 35/HDCD The contract on exchange of agricultural land use rights of households and individuals

Form No. 36/HDCD The contract on assignment of land use rights and assets attached to land

Form No. 37/HDCN The contract on assignment of land use rights

Form No. 38/HDMB The contract on trading of assets attached to land

Form No. 39/HDMB The contract on trading of condominium apartments

Form No. 40/HDTA The contract on donation of land use rights and assets attached to land

Form No. 41/HDTA The contract on donation of land use rights

Form No. 42/HDTA The contract on donation of assets attached to land
Form No. 43/HDTA The contract on donation of condominium apartments
Form No. 44/HDT The contract on hiring land use rights and assets attached to land
Form No. 45/HDT The contract on hiring land use rights
Form No. 46/HDT The contract on hiring assets attached to land
Form No. 47/HDT The contract on renting condominium apartments
Form No. 48/HDTC The contract on mortgage of land use rights and assets attached to land
Form No. 49/HDTC The contract on mortgage of land use rights
Form No. 50/HDTC The contract on mortgage of assets attached to land
Form No. 51/HDTC The contract on renting condominium apartments
Form No. 52/HDGV The contract on capital contribution with land use rights and assets attached to land
Form 53/HDGV The contract on capital contribution with land use rights
Form No. 54/HDGV The contract on capital contribution with assets attached to land
Form No. 55/HDGV The contract on capital contribution with condominium apartments
Form No. 56/HDUQ The contract on authorization
Form No. 57/DC The testament
Form No. 58/VBPC The document on division of inheritance estates
Form No. 59/VBN The document on receipt of inheritance estates
Form No. 60/VBTC The document on relinquishment of succession
Form No. 61/SCT The contract, transaction and authentication book

1.3. Forms to be used by Management Boards

Form No. 62/PYC The card of request for certification of contracts and documents
Form No. 63/PH The appointment ticket
Form No. 64/PYCCC The card of requesting the supply of cadastral information
Form No. 65/PCC The cadastral information supply card

For forms of contract or document on immovable property, Management Boards shall use Forms No. 05 thru No. 30 mentioned at Point 1.1 of this Clause.

2. For island districts having no administrative units being communes or district townships, district People's Committees shall authenticate contracts or documents on immovable property of households and individuals.

For island districts having no notary bureaus, the district People's Committees shall authenticate contracts and documents on immovable property of domestic organizations, overseas Vietnamese, foreign organizations or individuals.

3. Contracts and documents on immovable property which have been notarized or authenticated before this Circular comes into force shall not have to be re-notarized or re-authenticated under the guidance of this Circular.

4. Provincial/municipal People's Committees shall have to organize the implementation of, and direct provincial/municipal Services of Justice, Services of Natural Resources and Environment and concerned services, branches as well as the People's Committees of rural districts, urban district, provincial capitals and towns to implement this Circular.

5. Provincial/municipal Services of Justice and Services of Natural Resources and Environment shall have to provide professional guidance for notary bureaus, land use right registration offices and People's Committees of communes, wards or district townships to implement this Circular.

6. Any difficulties or problems arising in the course of implementing this Circular should be promptly reported to the Justice Ministry and the Ministry of Natural Resources and Environment for study and solution.

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