

**Land Code Amendment Act (No. 11) B.E. 2551 (2008)****Translation**

BHUMIBOL ADULYADEJ REX

Given on 30th January 2008

Being the 63rd Year of the Present Reign

His majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to amend the Land Code;

This Act contains certain provisions in relation to the restriction of right and liberty of person, in respect of which section 29 in conjunction with section 41 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

**Section 1**

This Act shall be called, "Land Code Amendment Act (No. 11) B.E. 2551 (2008)".

**Section 2**

This Act shall come into force as from the day following the date of its publication in the Government Gazette except for Section 3, Section 6 and Section 7 which shall come into force after 90 days following the date of its publication in the Government Gazette.

**Section 3**

The provision of Section 9 bis of the Land Code amended by the Announce of the Revolutionary Council No. 334 dated 13th December B.E. 2515 (1972) shall be repealed and replaced by the following provision:

"Section 9/1

Person who is permitted under Section 9 must pay remuneration to the Municipalities, the Sub-District Administrative Organization, the Bangkok Metropolitan Administration, the City of Pattaya or other Local Government Organizations that are governed by the law on land allocation, except for the Provincial Administrative Organization, according to the procedure and rate set forth in the provisions of each Local Government Organization but not exceeding the rates as attached hereto.

The Local Government Organization in the provincial district shall apportion the remuneration paid under paragraph one to the Provincial Administrative Organization at the rate of forty percent of the total sum received within thirty days from the date of receipt to be the income of the Provincial Administrative organization and the remainder after apportionment shall be realized as an income of the Local Government Organization of the locality in which the land is situated. In the case where such land is not situated within the governed district of the Provincial Administrative Organization, the remuneration received under paragraph one shall wholly become the income of the Local Government Organization."

**Section 4**

The provision of Section 56 of the Land Code shall be repealed and replaced by the following provision:

"Section 56

Subject to Section 56/1, forms, rules and procedures for issuance of the Pre-emption Certificate, the Utilization Certificate, the Land Examination Certificate or

the Title Deed, including the substitutions thereof shall be in accordance with the Ministerial Regulations."

## **Section 5**

The following provision is added to Section 56/1 of the Land Code:

### **"Section 56/1**

In issuing the Title Deed or the Utilization Certificate for the land with its partial area adjoining and overlapping or encroaching upon the domain public of State with the existence of aerial photo map or aerial photograph, the competent officials may proceed only when it is examined and verified with the earliest aerial photo map or aerial photograph, as may be available through government service, that the land is eligible for issuance of the Title Deed or the Utilization Certificate. The other methods of examination and verification may be carried out in accordance with the rules prescribed by the Director-General."

## **Section 6**

The provision of Section 61 of the Land Code amended by the Land Code Amendment Act (No. 9) B.E. 2543 (2000) shall be repealed and replaced by the following provision:

### **"Section 61**

In a case where there appears an inaccuracy or illegality in connection with the issuance of the Title Deed or the Utilization Certificate, the registration of rights and juristic acts for the immovable property, or the record making of the list of registered immovable properties, the Director-General or either the Deputy Director-General or the Inspector of the Department of Land authorized thereby shall have power to order the annulment or amendment thereof.

Prior to taking actions under paragraph one, the Director-General or the person authorized thereby under paragraph one shall set up a Committee of Enquiry with authority to call for documents as follows: the Title Deed, the Utilization Certificate, the rights and juristic acts registration documents, documents related to the recorded list of registered immovable properties or other documents for consideration. The interested parties shall be notified for purpose of objection, if any. Upon the expiration of thirty days following the date of notification without any objection, it shall be regarded as no objection at all.

The Committee of Enquiry with duties to examine the inaccurate or unlawful issuance of the Title Deed or the Utilization Certificate shall, at the least, consist of public authorities and the representative of the local administrative body or the local administrator of the relevant locality as members.

The examination and enquiry under paragraph two shall be carried out until completion and the matter shall be submitted to the Director-General or the authorized person under paragraph one within sixty days from the day on which the examination and enquiry is ordered. If the examination and enquiry is not completed within such time period, the Committee of Enquiry shall give reasons and report to the Director-General or the authorized person under paragraph one for the extension of time. The time extension shall be granted by the Director-General or the authorized person under paragraph one as necessary but not exceeding sixty days.

The consideration of the matter reported by the Committee of Enquiry under paragraph four shall be completed by the Director-General or the authorized person under paragraph one within fifteen days. The decision after the aforesaid consideration shall be executed as such.

In carrying out the revocation or amendment under this Section, if the Title Deed or the Utilization Certificate is absent, such Title Deed or Utilization Certificate shall be

deemed as lost and the land officers shall issue a substitution thereof for further actions.

Provided that the inaccuracy arises from erroneous handwriting or typing with explicit supporting evidence and the interested party gives a written consent, the land officers shall have power and duty to correct it.

In case of the Court's final judgment or order of revocation or amendment, the land officers shall carry out acts in accordance with such judgment or order according to the procedures instructed by the Director-General.

The formation of the Committee of Enquiry, the examination and enquiry, the notification to the interested party who may make an objection, and the consideration of revocation or amendment shall be in accordance with the rules and procedures prescribed in the Ministerial Regulations."

## **Section 7**

Any person granted permission under Section 9 of the Land Code prior to the enforcement date of this Act shall pay the remuneration in accordance with Section 9 bis. of the Land Code amended by the Announcement of the Revolutionary Council, No. 334, dated 13th December B.E. 2515 (1972) until the expiration of such permission.

## **Section 8**

Any person possessing and making use of land prior to the enforcement date of this Land Code with the evidence of his/her claim for land possession, and failing to file the application for the issuance of the Title Deed or the Utilization Certificate shall file the application for the issuance thereof together with the aforesaid evidence with the competent officials within two years from the enforcement date of this Act.

Upon the entry of the application together with the evidence of claim therefore under paragraph one; the competent officials shall proceed with the issuance of the Title Deed or the Utilization Certificate in accordance with the Land Code.

Upon the expiration of the designated time period under paragraph one, the competent officials may, if the aforesaid evidence is presented to the competent officials for purpose of the issuance of the Title Deed or the Utilization Certificate, issue the Title Deed or the Utilization Certificate only upon the Court of Justice's final judgment or order confirming that the person presenting the evidence has lawfully possessed and utilized the land prior to the enforcement date of the Land Code.

During the court proceedings under paragraph three, the Court shall notify the Department of Lands and the Department of Lands shall examine and verify the evidence with the earliest aerial photo map or the aerial photograph officially prepared and shall make and submit, for the Court's Consideration, a statement of opinion advising whether such person has lawfully possessed or utilized the land prior the enforcement date of the Land Code. The submission of the said statement of opinion to the Court shall be within a hundred and eighty days after the receipt of the Court's notice unless the time is extended otherwise by the Court.

For the purpose of this Section, any person possessing the land under paragraph one shall include the person who possesses and makes use of land in continuation thereof.

## **Section 9**

The Director-General of the Department of Lands shall, within two years as from the enforcement date of this Act, examine and verify the evidence of claim for the land possession and the location of the land as per the actual evidence thereof with the register of land possession and the map or the aerial photo map or the aerial photograph to confirm whether the Title Deed or the Utilization Certificate has already been issued for the said land or not. If, after examination, the Title Deed or the Utilization Certificate is found issued to any land parcel, the evidence of claim for land possession shall be disposed of.

## Section 10

The Minister of Interior shall have charge and control of the execution of this Act.

Countersigned by General Surayuth Julianond as Prime Minister

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**Remarks:** The reasons of the promulgation of this Act are as follows: It is considered expedient to amend the following provisions:- First, the provisions that provides for the determination and the levy of remuneration by the Provincial Administrative Organizations under Section 9 bis; second, the provisions prescribing the rules and procedures of the issuance of the Title Deed or the Utilization Certificate under the Land Code; and, third, the provisions in relation to the person with powers and duties to order the revocation or correction of the Title Deed or the Utilization Certificate, or the registration of rights and juristic acts related to the immovable property, or the record of the registered immovable properties that is made inaccurately or unlawfully. It is, in addition, expedient to add the provisions conferring powers in determining and levying the remuneration to the Municipalities, the Sub-District Administrative Organization, the Bangkok Metropolitan Administration, the City of Pattaya, or other Local Government Organizations that are governed by the law on land allocation under Section 9 in order to distribute income to the local government units. The rules and procedures of issuance of the Title Deed or the Utilization Certificate shall be revised and improved by developing a measure to encourage any person with evidence of his/her claim for land possession to apply for the issuance of the Title Deed or the Utilization Certificate. There shall be, furthermore, an amendment to vest power to order the revocation or correction under Section 61 in the Director-General of the Department of Lands or either Deputy Director-General or the Inspector of the Department of Lands authorized thereby so as to accelerate the issuance thereof and to conform to the principle of the government system reform which focuses on the devolution of responsibilities and powers in making decisions. It is therefore necessary to enact this Act.

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