



RIGHTS OVER LEASEHOLD ASSET ACT B.E.2562

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His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun

Giving on 26th April B.E. 2562 (2019)

Being the 4th Year of the Present Reign

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun has been graciously pleased to proclaim that:

Whereas it is expedient to have a law on rights over leasehold asset.

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

Section 1 This Act shall be called “Rights over Leasehold Asset Act B.E.2562”.

Section 2 This Act shall come into force after the expiration of one hundred and eighty days as from the date of its publication in the Government Gazette.

Section 3 In this Act,

“Rights over Leasehold Asset” means property that has the right in utilization of immovable property as prescribed in this Act.

“Immovable Property” means land that has title deed, land with structure in land that has title deed and condominium unit under the law on condominium.

“Competent Official” means competent official under the Land Code and competent official under the law on condominium.

Section 4 Any owner of immovable property, who wishes to establish rights over leasehold asset, shall lodge application to competent official together with title deed, strata title (title showing ownership in condominium unit) as the case may be.

Term of rights over leasehold asset is not more than thirty years.

Rights over leasehold asset in some part of immovable property according to title deed or strata title cannot be established.

The establishment of rights over leasehold asset in immovable property, which is pledged to mortgagee or used as collateral under law on business security or such immovable property has been registered any right in title deed or strata title, the establishment can be performed when received written form of consent from mortgagee or collateral recipient or entitled person as the case may be.

Section 5 When received establishment of rights over leasehold asset application under Section 4, competent official shall register the establishment of rights over leasehold asset in title deed or strata title as the case may be and shall issue certificate of rights over leasehold asset.

Certificate of rights over leasehold asset shall be made duplicate with the total of two copies, one copy shall be given to the owner of immovable property and the other shall be kept at the office of competent official.

Section 6 The application for establishment of rights over leasehold asset under Section 4, the registration of rights over leasehold asset and issuance certificate of rights over leasehold asset under Section 5, the cancellation of rights over leasehold asset under Section 14, and the withdrawal certificate of rights over leasehold asset shall be in accordance with the rule which prescribed in the Ministerial Regulation.

Section 7 In the case certificate of rights over leasehold asset was lost or damaged in essential part, holder of rights over leasehold asset is able to request for substitution of certificate of rights over leasehold asset. All this is under the rules which prescribed in the Ministerial Regulation.

When substitution certificate has already been issued, the previous certificate of rights over leasehold asset shall be revoked.

Section 8 Rights over leasehold asset shall not be subdivided.

Land which has the establishment of rights over leasehold asset cannot be subdivided into several parcels or consolidated with other land parcel into one single land parcel.

Section 9 When establishment of rights over leasehold asset in any immovable property, owner of immovable property cannot establish any proprietary interest in such immovable property except receiving written form of consent from the holder of rights over leasehold asset.

A content in paragraph one shall not affect right of the owner of immovable property in transferring ownership in immovable property to another person or using ownership in immovable property as pledge to mortgage or using as collateral under law on business security.

Section 10 A holder of rights over leasehold asset has right to utilize immovable property which was established rights over leasehold asset under this Act and as specified in certificate of rights over leasehold asset.

All this, the utilization of rights over leasehold asset has to be proceeded in accordance with law on such activity as well.

Section 11 A holder of rights over leasehold asset has right, duty, and liability in immovable property which it has been established rights over leasehold asset as if he is the owner of immovable property, except right to track and get immovable property back from a person who has no right to hold onto and right to obstruct other person not to interfere illegally with such immovable property are still remained to the owner of immovable property and a holder of rights over leasehold asset has to immediately inform such incident to owner of immovable property.

The ownership in structure or building which is modified, added, or reconstructed in immovable property by a holder of rights over leasehold asset shall belong to the owner of the immovable property when rights over leasehold asset is terminated, except owner of immovable property and holder of rights over leasehold asset has agreed upon in other way.

Content in paragraph two shall not be enforced with the execution to condominium unit under law on condominium.

Section 12 Rights over leasehold asset can be transferred to each other or used as collateral by pledging to mortgage under the Civil and Commercial Code.

Rights over leasehold asset can be inherited.

Any juristic act relevant to rights over leasehold asset has to be conducted in written form and registered by competent official and when registration has been done, the competent official shall immediately notify the owner of immovable property in accordance with category of juristic act and the rule which prescribed in the Ministerial Regulation.

Section 13 In the case of transferring rights over leasehold asset, transferor of rights over leasehold asset and transferee of rights over leasehold asset break a contract which is the reason that any side terminate the contract, contract termination shall not affect the right of third party who acts in good faith and pay remuneration, and has already registered in good faith.

Section 14 The owner of immovable property who is the holder of rights over leasehold asset may cancel rights over leasehold asset prior to due date, except in the case that such cancellation of rights over leasehold asset will affect to right of third party who act in good faith and pay remuneration, and has already registered in good faith.

Section 15 When rights over leasehold asset is terminated, a holder of rights over leasehold asset shall deliver immovable property back to owner of immovable property under the actual condition at the time, except owner of immovable property and holder of rights over leasehold asset has agreed upon in other way.

Section 16 The proceeding of issuance certificate of rights over leasehold asset, the registration of juristic act or other proceeding concerned with rights over leasehold asset, competent official shall collect fee and expense as prescribed in the Ministerial Regulation but shall not exceed the rate in the list attached at the end of this Act.

Department of Lands shall deduct expense for five percent of collectable fee.

Collected fee according to this Act, after deducting expense under paragraph two, shall be the revenue of municipality, sub-district administration organization, Bangkok Metropolitan, Pattaya City, or other local government organization which they have been established by law for proceeding with immovable property that has capital within such area.

Section 17 The Minister of Interior shall take charge and control of the execution of this Act and shall have power to issue the Ministerial Regulation for determining fee and expense which shall not exceed the rate attached at the end of this Act including the exemption of fee and specifying other operation for execution under this Act.

When the Ministerial Regulation has already been proclaimed in the Government Gazette, such Ministerial Regulation shall come into force.

Countersigned by

General Prayut Chan-o-cha

Prime Minister

Fee and Expense Rate

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1. Fee for registration of rights over leasehold asset establishment	20,000 baht/application
2. Fee for issuance certificate of rights over leasehold asset or substitution certificate of rights over leasehold asset certificate	10,000 baht/copy
3. Fee for registration of transferring rights over leasehold asset	
(a) with capital	2% of capital price that applicant shows as fact, fraction of hundred shall be calculated as one hundred
(b) with no capital	1,000 baht/application
4. Fee for registration of mortgage	1% of mortgaged capital price
5. Fee for registration of cancellation rights over leasehold asset	20,000 baht/application
6. Fee for Miscellaneous	
(a) Fee for application	200 baht/copy
(b) Fee for making copy or duplicate of any document include fee for making copy or duplicate document as witness in civil case, copy and duplicate which it has been made by competent official	200 baht/page
(c) Fee for certifying copied or duplicated document	200 baht/copy
(d) Fee for verifying evidence of rights over leasehold asset record	200 baht/copy
(e) Fee for receiving caveat case of rights over leasehold asset	200 baht/copy
(f) Fee for power of attorney	500 baht/case
(g) Fee for verifying record or other information	200 baht/copy
(h) Fee for making copy from computer data or other electronic data or copy of other information	500 baht/page
(i) Fee for notification	200 baht/case
7. Expense	
(a) Fee for posting notification for person who posted the notification	200 baht/person
(b) Fee for witness	200 baht/person

Remarks: Reason ofproclaiming this Act are as follows: hiring of immovable property under the Civil and Commercial Code is in the characteristic of the right under the contract enforces specifically between the party in the contract which has some restriction in using for economic benefit, regarding to hiring of immovable property under law on hire of immovable property for commercial and industrial purpose has restricted enforcement range which make it is unable for some cases to have benefit from such law. Therefore, it is appropriate to prescribe rights over leasehold asset as the right to utilize immovable property which can be transferred and pledged as collateral under mortgage which could promote and support investment in immovable property and push forward economic expansion of the country as a whole. Therefore, it is essentially to enact this Act.