**Rules**

“China's legal system is a mixture of common law and continental legal systems, but it puts relatively less emphasis on legal precedents. The 1992 U.S.-China bilateral market access MOU committed China to publish all relevant laws, rules, regulations, administrative guidance and policies governing foreign trade. For instance, all international trade related laws and regulations could be located in the MOFTEC Gazette, the official register. Many of government ministries have also published digests of their regulations, either in hardcopy or on their websites. Real estate related laws could be located at http://www.cin.gov.cn/, the Ministry of Construction's web site.

It may make sense for U.S. businesses to have a general idea about what the related laws and regulations are before they enter China. Real estate laws and regulations are made by the following commissions and agencies: the National People's Congress and its standing committee, the State Council, Ministries and commissions under the State Council, local people's congresses and their standing committees, local governments, relevant supervisory and regulatory departments.

Under the 1982 Constitution, urban land in China is owned by the State and the collectives own the rural land. Since the local and central governments administer the rural collectives, it can be construed that all land ownership is under control of the State. However, the Constitution's Amendment Act of 1988 to Article 10 adopted on April 12, 1988, states that a land use right may be transferred in accordance to law. Based on this statement, a land use right becomes divisible from land ownership, thus making land use right likely to be privatized. Individuals, including foreigners can hold long-term leases for land use. They can also own buildings, apartments, and other structures on land, as well as own personal property.

Real estate sales in China take place in the form of transfer of right to use land. To obtain land-use rights, the land user must sign a land-grant contract with the local land authority and pay a land-grant fee up front. The grantee will enjoy a fixed land-grant term and must use the land for the purpose specified in the land-grant contract. Depending on the type and purposes of land use, the maximum term of a land grant ranges from 40 years for commercial usage, 50 years for industrial purpose, to 70 years for residential use. In fact, transfer of a land use right has accounted for most of the business activity in the primary real estate market in China.

The rules regulating real estate business conducted by foreign investors consist of two levels, central government and local authorities. The central government has provided several guidelines to regulate the land administration. The most notably are the Law of Land Administration of the People's Republic of China (1998), the Interim Rules 1990 on Sale and Transfer of State Land's Use Rights in Cities and Towns (the 1990 Interim Rules), and the Regulations 1990 on Development and Management of Tracts of Land by Foreign Investors (the 1990 Regulations). Local authorities (provinces, cities and/or counties) have also posted some regional regulations and policies that are applied only in particular local jurisdictions. Often local authorities offer some incentives designed to attract foreign investors. The State Council is empowered to be on behalf of the State to administer the land owned by the State. All the land in China needs to be registered and recorded.

Although some efforts have been made, the lack of transparency in administrative procedures and arbitrary application of regulations and laws remain one of the main problems that have discouraged foreign companies to invest in China. Hopefully, this situation will change after China's WTO accession.

The following are areas of law that may affect real estate businesses:

State planning and budget law;

Land administration law (covering land leasing, property transfers, housing condemnation and demolition);

Planning law;

Construction law;

Public bidding law;

Environmental protection law;

Contract law;

Finance law (laws and regulations governing loans, financing and leasing, foreign exchange regulations and insurance);

Tax law;

Laws governing foreign-funded enterprises;

Corporate law;

Laws on foreign investment;

Laws on the protection of consumer rights and interests;

Labor law. “

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