



UNOFFICIAL TRANSLATION

**Property Rights Law  
of the People's Republic of China**  
- National People's Congress -

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Hu Jintao  
President of the People's Republic of China  
March 16, 2007

**CONTENTS**

**PART I GENERAL PROVISIONS**

**Chapter I Fundamental Principle**

**Chapter II Establishment, Modification, Transfer and Lapse of Property Rights**

- Section I Real Property Registry
- Section II Movable Property Delivery
- Section III Miscellaneous

**Chapter III Protection of Property Rights**



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## **PART II OWNERSHIP**

**Chapter IV General Stipulations**

**Chapter V State Ownership, Collective Ownership and Individual Ownership**

**Chapter VI Building Distinction Ownership of the Owner**

**Chapter VII Neighborhood Relationship**

**Chapter VIII Joint Ownership**

**Chapter IX Special Regulations Pertaining to Attainment of the Ownership**

## **PART III USUFRUCTUARY RIGHTS**

**Chapter X General Stipulations**

**Chapter XI Right to Land Contractual Management**

**Chapter XII Right to the use of the Construction Land**

**Chapter XIII Right to the use of the Residential Housing Land**

**Chapter XIV Easement on Land**

## **PART IV SECURITY INTEREST IN PROPERTY RIGHTS**

**Chapter XV General Stipulations**

**Chapter XVI Mortgage Right**

Section I General Mortgage Right  
Section II Maximum Mortgage Right

**Chapter XVII Right of Pledge**

Section I Pledge of Movable Property  
Section II Pledge Rights



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**Chapter XVIII Lien**

**PART V POSSESSION**

**Chapter XIX Possession**

**Supplementary Provisions**

**Property Rights Law of the People's Republic of China**

**PART I GENERAL PROVISIONS**

**Chapter I Fundamental Principle**

**Article 1**

This Law is formulated with a view to maintaining the national basic economic system and the economic order of the socialist market, clarifying the ownership of property, giving full effect to the meaning of property, protecting the obligee's property ownership rights, in accordance with the Constitution.

**Article 2**

This Law shall apply to civil relationship arising from the ownership and utilization of property.

The word "property" as a term used in this Law includes movable and real property. Where there are laws stipulating rights as the objects of property rights, they shall be observed.

The phrase "property rights" as a term used in this Law refers to the exclusive right enjoyed by the obligee to directly control specific properties including ownership, usufructuary and security right in property rights.

**Article 3**

During the primary stage of socialism, the State shall adhere to the basic economic system, with public ownership playing a dominant role and diverse forms of ownership developing side by side.



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The State shall consolidate and develop unswervingly the public sector of the economy and at the same time encourage, support and guide the development of the non-public sectors of the economy.

The State implements the socialist market economy, ensuring equal legal status and right for development of all market players.

**Article 4**

The property rights of the State, collective, individual and other obligees shall be protected by laws and shall not be infringed by any institute or individuals.

**Article 5**

The types and content of property rights shall be stipulated by laws.

**Article 6**

The establishment, modification, transfer and lapse of the right in real property shall be registered in accordance with relevant laws and regulations. The establishment and transfer of the movable property shall be delivered pursuant to laws and regulations.

**Article 7**

The attainment and exercise of property rights shall comply with laws, social morality and shall not do harm to the public interests and the legitimate rights and interests of others.

**Article 8**

Where there are laws stipulated otherwise in respect of property rights, such laws shall be observed.

**Chapter II Establishment, Modification, Transfer  
and Lapse of the Property Right**

**Section I Real Property Registry**

**Article 9**

Unless otherwise provided by law, the establishment, modification, transfer and lapse of the right in real property shall only take effect upon registration pursuant to laws.

The ownership with regard to State-owned natural resources might not be registered.

**Article 10**

The real property shall be registered in the registration department of the place where it is located.



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With regard to real property, the State pursues a uniformed registration system, of which the scope, departments and methods shall be stipulated by laws and administrative regulations.

**Article 11**

While applying for registration, the party interested shall provide evidentiary materials showing the ownership as well as other necessary materials specifying the site and size of the real property.

**Article 12**

The registration department shall perform such duties as stated below:

- (i) Check and examine the evidentiary materials showing the ownership and other necessary materials submitted by the applicant;
- (ii) Raise inquiries to the applicant in respect of the registration;
- (iii) Conduct registration according to facts and in a timely manner;
- (iv) Other duties provided by laws and administrative regulations;

In the event where further evidence is needed in respect of relevant items of the real property to be registered, the registration department may require the applicant to provide supplementary materials and conduct field survey if necessary.

**Article 13**

The registration department shall not conduct any of the following:

- (i) Require evaluation with regard to the real property;
- (ii) Require repetitive registration in the name of annual inspection;
- (iii) Other actions beyond the scope of registration authority.

**Article 14**

The establishment, modification, transfer and lapse of right in real property, which is required to be registered, shall take effect upon being registered.

**Article 15**

The contract entered into by interested parties in respect of the establishment, modification, transfer and lapse of the right in real property shall take effect immediately upon execution thereof unless otherwise provided by law or in the said contract. The validity of the contract shall not be affected if the registration in respect of the right in property is not carried out.

**Article 16**

The Real Property Register shall be the basis of evidence pertaining to the ownership and content of the property rights and shall be supervised by the registration department.



**Article 17**

The ownership certificate of real property is the evidentiary material showing the rightful ownership of the obligee in such real property. Items recorded in the ownership certificate of real property shall be in conformity with that registered in the registration certificate, otherwise, the real property registration certificate shall apply.

**Article 18**

The registration department shall provide assistance to the obligee and interested party to review and make a copy of the registration information.

**Article 19**

Where the obligee, interested party considers items recorded in the real property register had been wrongly entered, may apply for correction of the registration. In the event that the obligee of the real property register agrees with the correction in writing or have evidences to prove the existence of the mistakes with regard to the registration, the registration department shall make relevant corrections.

In the event that the obligee of the real property register does not agree with the correction, the interested party may apply to oppose to the registration. Where the opposition registration is approved by the registration department, the applicant may bring a suit to a court within fifteen (15) days from the date of registration of such opposition, failing which such opposition registration shall become invalid. When the obligee suffers from inappropriate opposition registration, the obligee may claim damages from the applicant.

**Article 20**

Where concerned parties reach an agreement pertaining to purchase or sale of a house or other real properties, it may, in order to ensure realization of property rights, apply for pre-notice registration with the relevant registration department in accordance with the agreement. Upon completion of the pre-notice registration, the disposal of such real property without consent from the obligee of the pre-notice registration shall not take effect with regard to property rights.

Upon the registration of the pre-notice, the creditor's rights lapses or within three (3) months from the date on which such registration can be registered, but fails to apply for registration of real property within, the pre-notice registration shall become null and void.

**Article 21**

The party concerned shall, if providing false materials for registration that does harm to others, bear the responsibility for compensation.

Where the registration department brings damage to others as a result of mistakes in registration, it shall bear the responsibility for compensation and shall have the right of recourse to the person who is liable for such mistake.



**Article 22**

The registration of real property shall be charged according to the quantity and may not be charged according to the size, volume or price of the real property. Specific charge standard shall be jointly stipulated by relevant department of the State Council and the competent department in charge of pricing.

**Section II      Delivery of Movable Property**

**Article 23**

Unless otherwise provided by law, the establishment and transfer of the right in movable property shall take effect upon delivery.

**Article 24**

The establishment, modification, transfer and lapse of the right to property in respect of water-crafts, aero-crafts and motor vehicles without first being registered, shall not affect any bona fide third party.

**Article 25**

Where the obligee has already in possession of the movable property before the establishment, transfer of the right in such movable property, the property rights shall become effective upon the validity of the legal action.

**Article 26**

Where a third party has been in possession of the movable property before the establishment, transfer of the right to such movable property, the delivery of such movable property right may be replaced by transfer of the right to request the third party to return the property by the person entitled with the delivery obligation.

**Article 27**

The assignor shall deliver the movable property to the assignee in case of an assignment of the right to such movable property, provided, however, that both parties agree on a continuous possession of such movable property by the assignor, the right to property shall take effect upon the validity of such agreement.

**Section III      Miscellaneous**

**Article 28**

The establishment, modification, transfer and lapse of the property rights as a result of the legal amanuensis of the people's court and the arbitration commission, the expropriation decision of the people's government shall become effective upon the effective date of such legal amanuensis or expropriation decision of the people's government.



**Article 29**

The property rights obtained as a result of inheritance or acceptance of donation shall take effect upon the commencement of the inheritance or the donation.

**Article 30**

The establishment or lapse of property rights due to such actual actions as legal construction and demolition of houses shall become valid and effective upon the occurrence of such actions.

**Article 31**

The disposal of such property rights as enjoyed pursuant to the provisions of Article 28 to Article 30 hereof shall not become effective in respect of the property rights if not being registered, provided that such disposal needs to be registered.

**Chapter III Protection of the Property rights**

**Article 32**

Where the property rights are infringed, the obligee may handle the problem through such means as pacification, mediation, arbitration or litigation.

**Article 33**

In case that disputes arise in respect of the ownership and content of the property rights, the interested party may request affirmation of such right.

**Article 34**

Where the real property or movable property is possessed by people without rights, the obligee shall have the right to request return of such property.

**Article 35**

Where the property rights are infringed or likely to be infringed, the obligee may request to remove such encumbrance or hazard.

**Article 36**

Where the real property or movable property is damaged, the obligee may request repairs, remake, replacement or restoration.

**Article 37**

Where the obligee suffers from infringement done to the property rights, it may claim damages and request the infringing party to bear other civil liabilities.

**Article 38**



The methods with regard to the protection of the property rights provided in this chapter may be used separately or jointly according to specific circumstances of the infringement of the right.

Where the infringement of the property rights violates administrative regulations, the infringing party shall, in compliance with laws, assume the administrative liability, in addition to the civil liability; if such infringement constitutes a crime, the party concerned shall be investigated for criminal responsibility in accordance with law.

## **PART II OWNERSHIP**

### **Chapter IV General Stipulations**

#### **Article 39**

The owner shall have the right to possess, utilize, dispose off and obtain profits from its real or movable property in accordance with the laws.

#### **Article 40**

The owner shall have the right to establish usufructuary and security right in property rights with regard to its real or movable property. The obligee of the usufructuary and security right shall not do harm to the rights and interests of the owner while exercising their own rights.

#### **Article 41**

No institute or individual shall be allowed to obtain the ownership of real or movable properties that are exclusively owned by the State in accordance with the laws.

#### **Article 42**

For the purpose of public interest, the collectively-owned land, houses and other real property owned by institutes or individuals may be expropriated in line with the procedure and within the authority provided by laws.

For expropriation of collectively-owned land, such fees shall be paid as compensations for the land expropriated, subsidies for resettlement, compensations for the fixtures and the young crops on land, and the premiums for social security of the farmers whose land is expropriated shall be allocated in full, in order to guarantee their normal lives and safeguard their lawful rights and interests.

Where houses and other real properties of institutes and individuals are expropriated, compensations for demolition and resettlement shall be paid according to law in order to maintain the legal rights and interests of the expropriated; where individual residential house is expropriated, the residential conditions of the expropriated shall be guaranteed.



No institution or individual shall withhold, misappropriate, embezzle or privately divide the compensation for expropriation.

**Article 43**

The State adopts special protection with regard to the agriculture land, strictly limiting the transfer of agriculture land to construction land so as to control the total quantity of the construction land. No expropriation of the collectively-owned land in violation of the authority and procedure prescribed by laws shall be allowed.

**Article 44**

For the purpose of emergency handling or disaster relief, real or movable properties of institutions or individuals may be expropriated in line with the procedure and within the authority provided by laws. After such use or expropriation, the real or movable properties shall be returned to the owner. Compensation shall be made if the real or movable properties of institutions or individuals were damaged or lost after being expropriated.

**Chapter V State Ownership, Collective Ownership and Private Ownership**

**Article 45**

With regard to the properties belong to the State according to law, they are owned by the State, that is, by the whole people.

The State of Council shall, on behalf of the State, exercise the ownership with respect to the State properties; if there are provisions otherwise provided, they shall be observed.

**Article 46**

The mineral resources, waters, sea areas are owned by the State.

**Article 47**

The urban lands are owned by the State. Such rural land and the land on the outskirts of the city as belonging to the State according to law shall be owned by the State.

**Article 48**

All natural resources such as forests, mountains, grassland, unclaimed land and beaches are owned by the State, with the exception of the resources that are collectively-owned in accordance with the law.

**Article 49**

Such wild animals and plants as belong to the State according to law shall be owned by the State.



**Article 50**

The radio spectrum resource shall be owned by the State.

**Article 51**

Such cultural relics as belong to the State according to law shall be owned by the State.

**Article 52**

The national defence resource shall be owned by the State.

Public facilities like railways, roads, electric power, communications and gas pipes that belong to the State in accordance with the law shall be owned by the State.

**Article 53**

The State organs shall have the right to possess, use and to dispose of the real or movable properties controlled directly by them in accordance with law and relevant regulations stipulated by the State Council.

**Article 54**

The institutions held by the State shall have the right to possess, use and obtain benefits from and dispose of the real or movable properties directly controlled by them according to law and relevant regulations stipulated by the State Council.

**Article 55**

Enterprises that are funded by the State, shall be the responsibility of the State Council, the local people's governments, separately, and shall also enjoy the rights and interests of a capital contributor pursuant to laws and administrative regulations.

**Article 56**

The properties owned by the State shall be protected by law and shall not be occupied, privately divided, withheld, damaged by any institution and individual.

**Article 57**

The institution and its staff in charge of management and supervision of the State-own properties shall, in conformity with the laws, reinforce the administration, supervision of the State-owned properties, fostering the value saving and adding of the State properties and preventing them from being damaged.

Where losses are brought to the State-own properties as a result of malpractice and misusing of authority, the parties concerned shall bear relevant legal liabilities according to law. Where damnification is brought to the State-owned properties as a result of transfer at lower price, private partition, discretionary surety in breach of the regulations on administration of the State-own properties during the course of system reform, merger and division, connected transaction of the enterprises, the party concerned shall, pursuant to law, bear the relevant legal responsibilities.



**Article 58**

The collectively owned real and movable properties shall include:

- (i) Lands, forests, mountains, grasslands, unclaimed land and beaches owned collectively according to law;
- (ii) Buildings, production devices, cultivate land and water power facilities owned collectively;
- (iii) Facilities with regard to education, science, culture, health and gymnasium collectively owned;
- (iv) Other real and movable properties owned collectively.

**Article 59**

The real and movable properties which are collectively-owned by the urban collective shall be collectively owned by members of such collective.

Things stated below shall be decided collectively by the members of the respective collective in accordance with relevant legal procedure:

- (i) The land contract scheme and subcontracting of the lands to institutions or individuals outside of this collective;
- (ii) The adjustment of the contracted lands among contractor of the right to land contractual management;
- (iii) The utilization and distribution ways in respect of such fees as land compensations;
- (iv) Such matters as changes of ownership of the enterprises whose capital is contributed by the collective;
- (v) Other matters required by law.

**Article 60**

The exercise of the ownership of the collectively-owned lands, forests, mountains, grasslands, unclaimed land, beaches shall be in accordance with provisions as follows:

- (i) As to those owned collectively by peasants of a village, the village's collective economic organization or villagers' committee shall, on behalf of the collective, exercise the ownership;
- (ii) As to those owned collectively by two or more peasants of a village, the collective economic organizations or groups of villagers shall, on behalf of the collective, exercise the ownership;
- (iii) As to those owned collectively by peasants of the townships (town), the collective economic organizations of the townships (town) shall, on behalf of the collective, exercise the ownership.



**Article 61**

With regard to the real and movable properties collectively-owned by the urban collective, this collective shall, according to laws and administrative regulations, enjoy the right to possess, utilize, dispose of and obtain benefit from such properties.

**Article 62**

The collective economic organization or villagers' committee or village group shall, in light of the laws, administrative regulations, articles of association and rules of the village, make public to the collective members the status of the collectively owned properties.

**Article 63**

The collectively-owned properties shall be protected by law and shall not be occupied, privately divided, withheld, damaged by any institution and individual.

Where the decisions made by the collective economic organizations, villagers' committee or other principals infringe upon the legal rights and interests of members of the collective, the infringed members may claim revocation of such decisions with the people's court.

**Article 64**

An individual shall enjoy ownership with respect to such real and movable properties as legitimate income, houses, living goods, production tools and raw materials.

**Article 65**

The legal savings, investment and returns of individuals shall be protected by law.

The State shall protect the right of inheritance and other legal rights and interests of individual.

**Article 66**

The legitimate properties of individuals shall be protected by law and shall not be occupied and damaged by any institution and individual.

**Article 67**

The State, collective and individual may, according to law, make contributions to establish limited liability company, joint stock limited company or other enterprises. Where the real or movable properties of the State, collective and individual are made investment into the enterprise, the capital contributor shall, according to agreement or in proportion to its capital contribution, enjoy the right and fulfill the relevant obligation with regard to the lucre of the asset, major decision and designation of managerial staff of the business.



**Article 68**

The enterprise as a legal person shall have the right to possess, utilize, obtain benefit from and dispose of its real and movable properties in accordance with laws, administrative regulations and articles of association.

Legal person other than enterprise as a legal person shall have the right to its real and movable properties according to the provisions of relevant laws, administrative regulations and articles of association.

**Article 69**

The real and movable properties legally owned by social communities shall be protected by law.

**Chapter VI Building Distinction Ownership of the Owner**

**Article 70**

The owner shall enjoy the ownership in respect of such exclusive parts within the apartment building as the apartments for residential or commercial purposes, and the co-ownership and common management right with regard to jointly-owned parts other than the exclusive parts.

**Article 71**

The owner shall enjoy the right to possess, utilize, obtain profits from and dispose of the exclusive parts of the apartment building, provided that the exercise of its rights neither endangers the security of the apartment building, nor do harm to the legitimate rights and interests of other owners.

**Article 72**

The owner shall enjoy the rights and take on the obligation with respect to the jointly-owned parts other than the exclusive parts of the apartment building and may not flee from its obligation upon waiver of its rights.

Where the owner transfers its apartments of residential or commercial purpose within the apartment building, the co-ownership and the right of common management enjoyed by the owner with regard to the jointly-owned parts of the building shall be deemed to be transferred accordingly.

**Article 73**

The roads within the zoning of the apartment buildings shall be co-owned by the owners, with the exceptions of those belonging to urban public roads. The green fields within the zoning of the apartment buildings shall be co-owned by the owners, with the exceptions of those belonging to urban public green fields or individuals. Other public sites, facilities and rooms for realty service purpose shall be jointly owned by the owners.



**Article 74**

The parking lots and garages within the zoning of the apartment buildings shall firstly meet the demands of the owners. The ownership of the parking lots and garages within the zoning of the apartment buildings shall be decided via such means as selling, donation or leasing by the party concerned.

The parking lots occupying the co-owned roads of the owners or located at other sites shall be jointly owned by the owners.

**Article 75**

The owner may establish the owners' meeting and elect the owners' committee.

The local people's governments shall provide instructions and assistance with regard to the establishment of the owners' meeting or the election of the owners' committee.

**Article 76**

The owners shall, in accordance with law, decide matters as Stated below:

- (i) The constitution and modification of the rules of the procedure for the owners' meeting;
- (ii) The constitution and modification of the management regulations with regard to the apartment buildings and their accessory facilities;
- (iii) Election and changing of the member of the owners' committee;
- (iv) Employment and dismissal of the realty service organizations or other managerial personnel;
- (v) Raising and utilization of the funds pertaining to the maintenance of the buildings and their accessory facilities;
- (vi) Repairing, reconstructing, rebuilding the buildings and their accessory facilities;
- (vii) Other major and important events with regard to the co-ownership and right of common management.

The decision with regard to matters provided in item 5 and item 6 of the foregoing paragraph shall be made with the consent from owners whose exclusive parts account for over two-thirds of the gross area of the apartment buildings and whose number accounts for over two-thirds of the total number of the owners. The decisions made with regard to other matters of the foregoing paragraph shall be made with the consent from owners whose exclusive parts accounts for over half of the gross area of the apartment buildings and whose number accounts for over half of the total number of the owners.

**Article 77**

The owner may not, in violation of the laws, regulations and management rules, change the residential apartment into apartment for commercial purpose. The owner must, in addition to observing laws, regulations and the management rules, obtain consent from



the owners in interest before turning the apartment into apartment for commercial purpose.

**Article 78**

The decision made by the owners' meeting or committee shall be binding upon the owners.

Where the decision made by the owners' meeting or committee infringes upon the legitimate rights and interests of the owner, the infringed owner may apply for cancellation with the people's court.

**Article 79**

The maintenance funds for the apartment building and its accessory facilities shall be co-owned by all owners and be used for the maintenance of such community spaces as elevators and water tanks. Status quo with regard to raising and use of the maintenance funds shall be made public.

**Article 80**

The fee apportionment and profits distribution of the apartment building and its accessory facilities shall be in accordance with relevant provisions (if any), or shall be determined in proportion to the exclusive parts possessed by the owners if there is not any or expressly-stated provisions.

**Article 81**

The owners may, at their own discretion, either manage the building and its accessory facilities by themselves or realty-services company or other managerial personnel entrusted by the owners.

The owners shall have the right to make changes with regard to the realty management company or other managerial personnel employed by the construction entity.

**Article 82**

The realty management company or other managerial personnel shall, in accordance with the entrustment of the owners, manage the apartment building and its accessory facilities within the zoning of the apartment buildings and accept the supervision from the owners.

**Article 83**

The owners shall abide by laws, regulations and the management provisions stipulated by the owners' meeting.

The owners' meeting and committee shall have the right to request the parties concerned to stop infringement, get rid of the effect, remove impediment and make compensations with regard to such actions that impairing the legal rights and interests of others as willful throwing away of the garbage, possession of the passageways, release of sources of air



pollution, making noises, raising animals in breach of regulations, construction in violation of rules and refusal to pay the realty management fee. The owner may, in accordance with laws, bring a lawsuit with the people's court in respect of such actions as infringing its own legitimate rights and interests.

## **Chapter VII Neighborhood Relationship**

### **Article 84**

In the spirit of providing convenience for production, life of the people, enhancing unity and mutual assistance, and being fair and reasonable, neighboring users of the real property shall maintain proper neighborhood relationship.

### **Article 85**

The handling of neighborhood relationship shall be in accordance with relevant provisions stipulated by laws and regulations (if any) or the local practice if there is no such provision stipulated by laws and regulations.

### **Article 86**

The obligee of the real property shall provide necessary convenience to its neighboring user with regard to water supply and drainage.

The natural running water shall be reasonably distributed among the neighboring users of the real property and shall be drained in accordance with the natural running direction.

### **Article 87**

The obligee of the real property shall offer necessary convenience for its neighboring user who has to use the obligee's land for passage.

### **Article 88**

In the event that the obligee of the real property has to use the neighboring lands or buildings for construction or repairing the buildings and installation of wire lines, electric cables, pipe lines, heating and gas pipes, the obligee of such lands or buildings shall provide necessary convenience.

### **Article 89**

The construction of buildings shall abide by relevant provisions stipulated by the State with regard to the construction planning and shall not affect the ventilation, sightseeing and lighting of the neighboring buildings.

### **Article 90**

The obligee of the real property may not, in violation of laws of the State, release gas polluters, water polluters, solid waste and discharging such harmful objects as noises, lights, magnetic wave radiation.



**Article 91**

The obligee of the real property may not endanger the security of the neighboring real property while digging the land, constructing the buildings, laying the pipes and lines and installing the equipments; the obligee of the neighboring real property shall have the right to request the obligee of the real property under construction to provide relevant guarantee.

**Article 92**

The obligee of the real property shall, while making use of the neighboring real property usage of water supply, drainage, traffic and installation of pipes and lines, make every effort not to do harm to the obligee's neighbors, and shall make appropriate compensations in case of any damages arising therefrom.

**Chapter VIII Joint ownership**

**Article 93**

The real or movable property may be owned jointly by two or more institutions or individuals. There are two kinds of joint ownership, namely co-ownership by proportion and common ownership.

**Article 94**

Each of the co-owners by shares shall enjoy the ownership in respect of the joint real or movable property in proportion to its share.

**Article 95**

Each of the common owners shall enjoy the ownership in respect of the joint real or movable property.

**Article 96**

The co-owners shall carry out management with regard to the real or movable property in accordance with relevant agreement; each of the co-owners shall enjoy the rights and assume the obligations respecting the management of the joint property.

**Article 97**

Unless otherwise agreed by the co-owners, the disposal of and major and big repairing with regard to the co-owned real or movable property shall be conducted with the consent from the co-owners by shares whose shares account for two-thirds of the total shares or from the entire co-owners.

**Article 98**

The management fee and other charges for the joint property shall be in accordance with relevant agreement (if any); if there is no any or expressly-stated agreement thereof, the



co-owners by shares shall bear the relevant responsibility in proportion to his shares while the common owners shall jointly bear the relevant responsibility.

#### Article 99

Where the co-owners reach an agreement that no partition in respect of the joint real or movable property shall be conducted in order to maintain the co-ownership relations, such agreement shall be observed; however, if the co-owners desire to divide the joint property for important reasons, the co-owners may make such a claim. If there is no such or express agreement respecting the partition, the co-owners by shares may at any time require the partition; the common owners may require partition in the event that the foundation for joint ownership perishes or there are important reasons for such partition. Where the partition results in damages to other co-owners, relevant remedies shall be made.

#### Article 100

The co-owners shall determine the methods for partition through consultation. Where, if no agreement can be reached, the real or movable property may be divided and, what's more, will not be devaluated due to the partition, the practicality shall be divided; where the joint property is difficult to be divided or may be devaluated due to the partition, partition can be carried out with regard to the payment obtained as a result of the auction, sale of the joint property or make relevant reimbursement of the estimated price respecting the joint property.

As for any flawed real or movable property gained by any co-owner from the division, the other co-owners shall share losses arising therefrom.

#### Article 101

Each co-owner by shares shall have the right to transfer the joint real property he owned or his own shares of the real property. When he offers to sell his share, the other co-owners shall have a right of pre-emption if all other conditions are equal.

#### Article 102

For public purposes, the co-owners shall, enjoy the joint creditor's right and bear the joint liability with regard to creditor's rights and debts occurring from the joint real or movable property, unless otherwise provided by law or there is a third party who is aware that the co-owners shall not bear the joint creditor's rights or joint debts. In internal, except as otherwise agreed upon by the co-owners, each of the co-owners by shares shall enjoy the creditor's rights and bear the relevant debt in proportion to his shares and each of the common co-owners shall jointly enjoy the creditor's rights and bear the relevant debts. The co-owner by shares who repays debts over its due shall be entitled to a recourse to other co-owners.

#### Article 103



In case that there is no agreement, express or implied, on whether it is ownership by shares or common ownership with respect to the joint real or movable property among the co-owners, the co-owners shall be deemed as co-owners by shares, with the exception that there exists a family relations among the co-owners.

**Article 104**

The shares enjoyed by the co-owners by shares with regard to the joint real or movable property shall, if there is no or express agreement hereon, be decided in proportion to the capital contribution of the co-owners, if no such proportion of capital contribution may be specified, shall be construed as equal.

**Article 105**

Where usufructuary or security property right is jointly owned by two or more institutions or individuals, the provisions of this Chapter shall apply.

**Chapter IX Special Regulations pertaining to Attainment of the Ownership**

**Article 106**

Where the real or movable property is transferred to a transferee by a person without the power to do so, the rightful owner shall have the right to recover such property. Unless otherwise provided by law, the transferee shall obtain the ownership respecting such real or movable property in any of the following events:

- (i) The Transferee accepts the transfer in a bona fide;
- (ii) Such property is transferred with a reasonable price;
- (iii) The transferred property has been registered in accordance with the laws requiring such registration, and those not required to be registered has been delivered to the transferee.

Where the transferee has obtained the ownership in respect of the real or movable property in accordance with the preceding paragraph, the original holder of the right shall enjoy the right to claim damages to the non-holder of the right to dispose of the property.

Where the parties concerned have obtained the other property rights in good faith, the above two paragraphs shall apply.

**Article 107**

The rightful owner or such other obligee shall have the right to claim and recover properties so stolen, robbed or lost. Where such movable property has been transferred or possessed by others through transfer, such obligee as the holder or the owner of the lost property shall have the right to claim damages against the non-holder of the right to dispose of such property. Where, if such obligee as the holder or the owner of the lost property claim the property within two (2) years from the date on which he knows or



should know the loss of such movable property, the transferee has purchased such property through auction or from an operator with the operation qualification, such obligee as the holder shall pay the transferee the amount the latter one has paid for repossession of the same. Where there are regulations stipulated otherwise by law, such regulations shall be observed.

**Article 108**

The original rights in the movable property shall lapse upon the attainment of such movable property by the bona fide assignee, except that the bona fide assignee know or should know such rights.

**Article 109**

The lost property shall be returned to the obligee once being picked up. The person who picks up the lost property shall notify the obligee of such lost the property to take it back or submit it to the public security department.

**Article 110**

Where the departments concerned receiving the lost property shall, if knowing the obligee or person who lost the property, notify them to take the property back in a timely manner; if not, the person who collected the lost property, shall issue a Lost Property notice in a timely manner.

**Article 111**

The lost property shall be appropriately kept by the person picking up the property before being submitted to the departments concerned or by departments concerned before being taken back. Where damages or lapse occur to the lost property as a result of deliberate or serious negligence, the parties concerned shall bear relevant civil liabilities.

**Article 112**

When taking back the lost property, the obligee shall pay such necessary fees as safekeeping fee regarding the lost property to the person picking up such property or departments concerned.

The obligee shall pay the person picking up the property such reward as it has offered while looking for the property.

Where the person picking up the lost property misappropriates such property, the person shall neither have the right to claim such necessary fees as safekeeping fee and reward nor to require the obligee to perform such obligations as the obligee has promised to do.

**Article 113**

The lost property shall, if not claimed within six months as of the date of issuance of the Lost Property notice, be owned by the State.



**Article 114**

Where items are picked up from drift, buried or the hidden are discovered, relevant regulations with regard to picking up of the lost property shall apply. Where there are provisions stipulated otherwise in the Law of the People's Republic of China on the Protection of Cultural Relics, such provisions shall be observed.

**Article 115**

Where the principal property is transferred, the affiliated ones shall be transferred accordingly, except as otherwise provided among parties concerned.

**Article 116**

The natural benefits shall be obtained by the title holder of such properties; where there are both the title holder and owner of the usufructuary right to the natural benefits, the property shall be owned by the owner of the usufructuary right, where there are agreements separately made by parties concerned, such agreements shall be observed.

The legal interests shall be obtained in accordance with relevant agreement between parties concerned (if any); if there is no such or express agreement, the transaction practice shall apply.

## **PART III USUFRUCTUARY RIGHTS**

### **Chapter X General Stipulations**

**Article 117**

The owner of the usufructuary right shall, within the extent permitted by law, enjoy the rights to possess, utilize and obtain profits from the real or movable properties owned by others.

**Article 118**

Institutions and individuals may occupy, utilize and obtain profits from such natural resources as owned by the State, or owned by the State while used by the collective and/or collectively-owned according to law.

**Article 119**

Unless otherwise provided by law, the State introduces the system of compensated use of natural resources.

**Article 120**

In exercising its rights, the owner of the usufructuary right shall abide by the regulations respecting the protection and reasonable exploration of the resources. The obligee may not intervene in the exercise of rights by the owner of the usufructuary right.



**Article 121**

Where the expropriation of the real or movable properties lead to the lapse of the usufructuary right or affect the exercise of the usufructuary right, the owner of the usufructuary right shall be entitled to gain relevant compensations pursuant to the provisions of Article 42 and 44 of this Law.

**Article 122**

The right to use the sea areas gained legally shall be protected by law.

**Article 123**

The right relating to mineral exploitation, mining, drawing water and the right to engage in aquaculture, fishing from inland waters and beaches obtained legally shall be protected by law.

**Chapter XI Right to Land Contractual Management**

**Article 124**

Rural collective economic organizations apply the dual operation system characterized by the combination of centralized operation with decentralized operation on the basis of operation by households under a contract.

Land contractual operation system shall be applied according to law in respect of farmlands, forestlands, grasslands collectively owned by peasants and land owned by the State but collectively used by peasants as well as other lands used for agricultural purpose.

**Article 125**

The contractor of the right to land contractual management shall enjoy the right to possess, utilize and obtain profits from the farmlands, forestlands and grasslands, and shall have the right to engage in such agricultural production as crop farming, forestry and animal husbandry.

**Article 126**

The contracted term of farmland shall be thirty years, thirty to fifty years for grassland and thirty to seventy years for forestland. The contracted term for forest land with special forests may be prolonged upon approval of the relevant competent forestry administration department of the State Council.

Where the contracted term provided in the preceding paragraph expires, the contractor of the right to land contractual management may continue the contract according to relevant provisions of the State.

**Article 127**



The right to land contractual management shall be established upon the effective date of the contract relating to the right to contractual land management.

The people's government above county level shall issue to the contractor of the right to land contractual management the certificate of right to land contractual management, the forest management certificate, certificate(s) of the right to use grassland and register and record them, confirming the right to land contractual management.

**Article 128**

The contractor of the right to land contractual management shall be entitled to circulate such right by adopting such means as subcontract, exchange and assignment in accordance with the provision is of the Rural Land Contract Law. The circulated term may not exceed the remaining period of the contract term. The contracted land, without being approved in accordance with law, may not be used for purpose other than agricultural construction.

**Article 128**

Where the contractor of the right to land contractual management exchanges with others or assigns the right to land contractual management, the contractor shall, if required by parties concerned, apply for modification registration regarding the right to land contractual management with the people's government above county level, and shall not be against bona fide third party if no such registration is conducted.

**Article 130**

The contract letting party may not adjust the land under contract within the contract term.

Where it is necessary to appropriately adjust the farm land and grassland in case that the contracted land is severely damaged by natural disaster, such adjustment shall be handled according to Rural Land Contract Law.

**Article 131**

The contract letting party shall not withdraw the contracted land within the contract term. If there are provisions otherwise provided for by Rural Land Contract Law, such provisions shall be observed.

**Article 132**

The contractor of the right to land contractual management shall, pursuant to the provisions of the 2nd paragraph of Article 42 of this Law, obtain the relevant compensations in the event of expropriation of its contracted land.

**Article 133**

With regard to such rural lands as wasteland contracted out by means of invitation to bid, auction, open consultation, the right to land contractual management shall be circulated by adopting such means as assignment, mortgage and ways otherwise according to Rural Land Contract Law and relevant regulations of the State Council.



**Article 134**

Where the State-owned farmland is contracted out for operation, relevant provisions of this Law shall apply.

**Chapter XII Right to the Use of Construction Land**

**Article 135**

The owner of the right to the use of land for construction use shall, according to law, be entitled to possess, utilize and obtain profits from the State-owned land, and have the right, by utilizing such land, to build buildings and their accessory facilities.

**Article 136**

The right to the use of land for construction use shall include right to the use of the land's surface, ground or underground. The newly-established right to the use of land for construction use may not infringe upon the rights of already-established usufructuary right.

**Article 137**

The right to the use of land for construction use may be established by means of assignment or transfer.

Such operation lands as for industrial, commercial, tourism, entertainment and commercial use and one land with two or above intentional users shall be assigned by auction or invitation to bid.

The establishment of the right to the use of land for construction use by way of transfer is strictly restricted. Where the way of transfer is adopted, provisions relating to land use stipulated by laws, administrative regulations shall be observed.

**Article 138**

Where the right to the use of land for construction use is established by means of auction, invitation to bid and agreement, the parties concerned shall enter into a written contract on assignment of the right to the use of land for construction use.

The contract on assignment of the right to the use of land for construction use shall include the following terms:

- (i) The names and domiciles of the parties concerned;
- (ii) The location and size of the land;
- (iii) The space occupied by the buildings, structures and the relevant accessory facilities;
- (iv) The purpose of the land;



- (v) The term of the use;
- (vi) Such fees as the assignment fee and terms of payment;
- (vii) Disputes resolution;

**Article 139**

The application for registration of the right to the use of land for construction use shall be filed with the registration departments. The right to the use of land for construction use shall be set up upon registration. The registration department shall issue to the owner of the right to the use of land for construction use the certificate of the right to the use of land for construction use.

**Article 140**

the owner of the right to the use of land for construction use shall in a reasonable way utilized the land and shall not change the purpose of the land; such change (if necessary) shall occur with the approval from relevant competent administrative department according to law.

**Article 141**

The owner of the right to the use of land for construction use shall pay such rates as assignment fee pursuant to relevant provisions provided for by law and the terms of the contract.

**Article 142**

The ownership of the building, structure and their accessory facilities built by the owner of the right to the use of land for construction use shall belong to such owner, unless there is evidence to the contrary sufficient to invalidate that.

**Article 143**

Except as otherwise provided for by law, the owner of the right to the use of land for construction use shall have the right to transfer, exchange, make as capital contribution, donate or mortgage the right to the use of land for construction use.

**Article 144**

Where the owner of the right to the use of land for construction use transfer, exchange, make as capital contribution, donate to others or mortgage the right to the use of land for construction use, the parties concerned shall enter into corresponding contract in writing. The term of such contract to be determined by parties concerned shall not exceed the remaining duration of the right to the use of land for construction use.

**Article 145**

Where the owner of the right to the use of land for construction use transfer, exchange, make as capital contribution, donate to others or mortgage the right to the use of land for construction use, application for modification registration shall be filed with the registration department.



**Article 146**

Where the right to the use of land for construction use is transferred, exchanged, made as a capital contribution or donated, the buildings, structures and their accessory facilities affiliated with such land shall be disposed of accordingly.

**Article 147**

Where the buildings, structures and their accessory facilities affiliated with a land for construction use is transferred, exchanged, made as a capital contribution or donated, the right to the use of such land for construction use as being occupied by such buildings, structure and their accessory facilities shall be disposed of accordingly.

**Article 148**

Where, prior to expiration of the term of the right to the use of land for construction use, it is necessary to retract such land for public interest, compensations shall be provided with regard to the houses and other real property built on the land pursuant to the provisions of Article 42 of this Law and the corresponding transfer fee shall be returned.

**Article 149**

The term of the right to the use of land for building houses shall automatically renewed upon expiration.

The term of the right to the use of land for non-house building purpose shall be renewed according to laws and regulations upon expiration. With regard to ownership of the houses built on the land and other real property related, relevant agreement (if any) shall be abided by, or, if there is no such agreement, the relevant provisions stipulated by law and administrative regulations shall be observed.

**Article 150**

The assignor shall, promptly upon lapse of the right to the use of land for construction use, proceed with the cancellation registration with the registration department that shall take back the certificate of the right to the use of land for construction use thereafter.

**Article 151**

Where the collectively-owned land is used for construction purpose, it shall be managed in accordance with such laws and regulations as the Law of Land Administration.

**Chapter XIII Right to the use of the Residential Housing Land**

**Article 152**



The owner of the right to the use of residential housing land shall enjoy the right to possess and utilize such land as collectively owned, and the right to build residential house and its accessory facilities on such land.

**Article 153**

Such laws as the Law of Land Administration and relevant regulations of the State shall be applicable to the attainment, exercise and assignment of the right to the use of residential housing land.

**Article 154**

The right to the use of residential housing land shall lapse accordingly in the event that such land is destroyed and lost due to natural disasters. New residential housing land shall be relocated to those villagers losing their residential housing land.

**Article 155**

Where the registered right to the use of the residential housing land lapses or is assigned, modification or cancellation registration shall be handled in a timely manner.

## **Chapter XIV Easement**

**Article 156**

The owner of easement shall have the right to improve the benefits of the real property of its own by utilization of real property of others according to terms of a contract.

The term “real property of others” as used in the preceding paragraph shall refer to the Land for Easement, and the “real property of its own” shall refer to the “Land Needing Easement”.

**Article 157**

To establish easement, the parties concerned shall enter into a written easement contract, the terms of which are as follows:

- (i) The names or titles and domiciles of the parties concerned;
- (ii) The location of the Land for Easement and the Land Needing Easement;
- (iii) The purpose and methods with regard to the utilization of the Land for Easement;
- (iv) The term for the utilization;
- (v) Relevant fees and the terms of payment;
- (vi) Disputes resolution.

**Article 158**

The easement shall be established upon the effective date of the easement contract. Where the parties concerned require registration, the application for easement registration



may be filed with the registration departments; if no registration for easement is conducted, such easement shall not be against any bona fide third party.

**Article 159**

The obligee of the Land for Easement shall, in accordance with terms of the contract, allow the easement owner to utilize the land and may not prevent the easement owner from exercising relevant rights.

**Article 160**

The easement owner shall make use of the Land for Easement in conformity with the purpose and methods agreed upon in respect of the utilization of the Land for Easement and make reasonable efforts to reduce restriction upon the property rights of the obligee of the Land for Easement.

**Article 161**

The term of the easement to be decided by the parties concerned shall not exceed the remaining duration of the term of such usufructuary right as the right to land contractual management and to the use of land for construction use.

**Article 162**

Where the owner of the land who enjoys or burdens the easement establishes the right to land contractual management and/or the right to the use of residential housing land, the contractor of the land contractual management and/or the owner of the right to the use of the residential housing land shall continue enjoying or burdening the established easement.

**Article 163**

Where the right to land contractual management, the right to the use of land for construction use and/or the right to the use of residential housing land have been established, the owner of the land may not set up the easement without the consent from the owner of the usufructuary right.

**Article 164**

The easement may not be assigned alone. Except as otherwise agreed upon in the contract, along with the right to land contractual management, the right to the use of land for construction use, the easement shall be transferred accordingly according to law.

**Article 165**

The easement may not be mortgaged alone. Where the right to land contractual management and the right to the use of land for construction use is mortgaged, the easement shall be assigned accordingly upon the realization of such mortgage.

**Article 166**



Where part of the right to land contractual management and the right to the use of land for construction use of the Land Needing Easement are assigned and the assignment involves the easement, the assignee shall enjoy the easement.

**Article 167**

Where part of the right to land contractual management and the right to the use of land for construction use of the Land for Easement are assigned and the assignment involves the easement, the easement shall be abiding by the assignee.

**Article 168**

The obligee of the Land for Easement shall have the right to rescind the easement contract to give rise to lapse of such easement in case of any of the following on the part of the owner of the easement:

- (i) Abusing the easement in violation of regulations provided by law or terms of the contract;
- (ii) Failing to pay the fee after being reminded to make the payment twice within a reasonable time limit upon the expiration of the scheduled term for payment while utilizing the Land for Easement with charges.

**Article 169**

Modification or cancellation registration shall be handled promptly in case of modification, assignment or lapse of the registered easement.

## **PART IV SECURITY INTEREST IN PROPERTY RIGHTS**

### **Chapter XV General Stipulations**

**Article 170**

Unless otherwise stipulated by laws, holder of security interest shall have priority in satisfying its claim if a debtor defaults in its obligations.

**Article 171**

If any guarantee is necessary for the creditor to enforce its claim in civil activities like accommodation of funds and the circulation of commodities, security interest may be provided in accordance with this Law and other laws.

Where a third party provides a guarantee to a creditor for a debtor, the third party may require the debtor to provide him with a counter-guarantee. The provisions on guarantee in this Law and other laws shall apply to the counter-guarantee.

**Article 172**

When the security interest is provided, a guarantee contract should be entered into in accordance with this Law and other laws. A guarantee contract is an ancillary contract of the principal contract. If the principal contract is null and void, the guarantee contract shall be null and void accordingly, unless otherwise stipulated by laws. .

If a guarantee contract is determined to be null and void, the debtor, the guarantor or the creditor who is in default shall bear civil liability according to their respective fault.

**Article 173**

The scope of security interest covers principal creditor's right and its interest, penalty, liquidated damages and expenses for storage of pledged assets and enforcement of security interests, unless otherwise agreed in the contract.

**Article 174**

In case of destruction, loss and requisition of the mortgaged property during the period of the surety-ship, the holder of security interest shall have priority in satisfying his claim from the guarantee fund, compensation money or compensatory amounts. The holder of security interest may also have such guarantee fund, compensation money or compensatory amounts deposited when the time limit for the performance of the security interest does not expire.

**Article 175**

Where a third party provides a guarantee to creditor for a debtor, if the creditor permits the debtor to transfer its debt without written consent of such third person, the guarantor shall not undertake surety-ship liability.

**Article 176**

Where there are both surety-ship and property security for the same claim, the creditor shall enforce its claim according to the agreement if the debtor fails to perform its debt; in the absence of an agreed or explicitly agreed mode of surety-ship, if the debtor provides the property security, the creditor shall enforce its claim from such property security; where a third person provide the property security, the creditor may enforce its claim from such property security or request the guarantor to undertake surety-ship liability. The third person that has undertaken the surety-ship liability shall have the right of recourse against the debtor.

**Article 177**

The security interest shall lapse under any of following circumstances:

- (i) The principal debt lapses,
- (ii) The security interest is enforced;
- (iii) The creditor waive the security interest;
- (iv) Other circumstances provided by law under which the security interest lapses.



**Article 178**

In case of any discrepancy between the Guarantee Law of the People's Republic of China and this Law, this Law shall prevail.

**Chapter XVI Right to Mortgage**

**Section 1 General Mortgage Right**

**Article 179**

Where a debtor or a third party, for performance of the mortgaged debt, secures the creditor's rights with property without transference of its possession, if the debtor defaults, the creditor shall have priority in satisfying his claim from such property;

The debtor or the third party specified in the preceding paragraph is the mortgagor; the creditor is the mortgagee, and the property provided as security is the mortgaged property.

**Article 180**

The following property which the creditor or third person is entitled to dispose of may be mortgaged:

- (i) Houses and other things firmly fixed on the land;
- (ii) Land use right to building lot;
- (iii) The land-use right to barren land contracted by the mortgagor by way of bidding, auction and discussion;
- (iv) Production equipment, raw materials, semi-finished products and finished products;
- (v) Buildings, ships and aircrafts under construction;
- (vi) Means of transportation;
- (vii) Other property that may be mortgaged according to law and administrative rules.

A mortgagor may at the same time mortgage all the property listed in the preceding paragraph.

**Article 181**

Enterprises, small business of industry and commerce and rural contractors may mortgage their existing and future production equipment, raw materials, semi-finished products and finished products according to the agreement between the parties, if the debtor defaults, the creditor shall have priority in satisfying his claim from such property.



**Article 182**

Where houses are mortgaged, the land use right to the construction lot occupied by the houses shall be mortgaged at the same time. Where the land use right to the construction lot is mortgaged, the houses fixed on the land shall be mortgaged at same time.

If the mortgagor fails to comply with the preceding paragraph, property not mortgaged shall be deemed as mortgaged at the same time.

**Article 183**

The land-use right to the land used by a township (town) or village enterprise may not be mortgaged separately. Where factories and other buildings of township (town) or village enterprises are mortgaged, the land-use right to the land occupied by such buildings shall be mortgaged at the same time.

**Article 184**

The following property may not be mortgaged:

- (i) Ownership of the land;
- (ii) Land-use right to the land owned by the collectives such as cultivated land, house sites, private plots and private hills, with the exception of those provided by law;
- (iii) Educational facilities, medical and health facilities of schools, kindergartens, hospitals and other institutions or public organizations established in the interest of the public and other facilities in the service of public welfare;
- (iv) Property in relation to which the ownership or the right of use is unknown or disputed;
- (v) Property sealed up, distrained or placed under surveillance in accordance with law; or
- (vi) Other property which may not be mortgaged as prescribed by law.

**Article 185**

A mortgagor and a mortgagee shall conclude a mortgage contract in writing.

A mortgage contract shall include the following particulars:

- (i) The kind and amount of the debt secured;
- (ii) The time limit for the debtor to perform his obligation;
- (iii) The name, quantity, quality, condition, location, ownership or ownership of The right to the use of the mortgaged property;
- (iv) The scope of the guarantee of mortgage.



**Article 186**

The mortgagor and the mortgagee may not stipulate that the ownership of the mortgaged property shall be transferred to the creditor in case the mortgagee's claim is not satisfied after maturity of the debt.

**Article 187**

Where a party mortgages assets provided for in Article 180 (i)-(iii) of this Law or houses under construction provided for in Article 180 (v) of this Law, he shall register the mortgaged property, and the mortgage contract shall become effective as of the date of registration.

**Article 188**

Where a party mortgages movable property provided for in Article 180 (iv)-(vi) of this Law or ships and aircrafts under construction provided for in Article 180 (v) of this Law, the mortgage contract shall become effective as of the date of registration. If a party does not register the mortgaged property, he may not defend against the claims of third party of good faith

**Article 189**

Where enterprises, small business of industry and commerce and rural contractors mortgage movable property provided for in Article 181 of this Law, the mortgage contract shall become effective as of the date of registration. If a party does not register the mortgaged property, he may not defend against the claims of third party of good faith.

If a party registers the mortgaged property in accordance with Article 181 of this Law, he may not defend against the claims of third party which has paid the consideration and obtained the mortgaged property in the ordinary course of business operations.

**Article 190**

If a mortgagor leases the mortgaged property before the execution of mortgage contract, the original contract of lease continues in effect. If a mortgagor leases the mortgaged property after the establishment of right of mortgage, the lease may not defend against registered right of mortgage.

**Article 191**

If a mortgagor transfers mortgaged property with the consent of the mortgagee during the period of mortgage, the proceeds which the mortgagor obtains from the transfer of the mortgaged property shall be used to liquidate the claim secured by the mortgage or it shall be deposited with a third party agreed upon by the mortgagor and the mortgagee.

If the proceeds exceed the claim, the balance shall belong to the mortgagor; if the proceeds do not cover the claim, the difference shall be paid by the debtor.



The mortgagor may not transfer the mortgaged property without consent of mortgagee during the period of mortgage, unless the transferee pays off debts on behalf of mortgagor and the right of mortgage lapses.

**Article 192**

The right of mortgage may not be separated from the creditor's rights and transferred singly, nor used to secure other creditors' rights. If the creditor's right is transferred, the right of mortgage shall be transferred at the same time, unless otherwise stipulated by laws or agreed by the parties.

**Article 193**

Where a mortgagor's acts are likely to cause the value of the mortgaged property to decline, the mortgagee shall be entitled to demand that the mortgagor cease and desist from such acts. Where the value of the mortgaged property has declined, the mortgagee shall be entitled to demand that the mortgagor restore the original value of the mortgaged property or provide security corresponding to the amount of the lost value. Where a mortgagor fails to restore the original value of the mortgaged property and fails to provide security, the mortgagee is entitled to request the mortgagor to liquidate the claim in advance.

**Article 194**

Mortgagee may waive the right of mortgage or order of right of mortgage. A mortgagor and a mortgagee may change the order of right of mortgage and amount of mortgaged debt by agreement, provided that, the change of right of mortgage shall not have negative impact to other mortgagees without written consent of such mortgagees.

Where a debtor shall provide guarantee of mortgage with its own property, if a mortgagee waives the right of mortgage or order of right of mortgage or change the right of mortgage, other guarantors shall be relieved of the suretyship liability to the extent that the mortgagee loses the priority in satisfying his claim, unless other guarantors commit to provide a guarantee.

**Article 195**

The mortgagee, who is not paid at the maturity of the obligation, may, through agreement with the mortgagor, be paid out of the proceeds from the conversion of the mortgaged property or from the auction or sale of the mortgaged property; other creditors may request the People's Court to cancel such agreement within one year after they know or should have known the cause of cancellation if the interest of such creditors are adversely affected.

If the mortgagee and mortgagor fail to reach an agreement, the mortgagee may bring a lawsuit in a People's Court.



Market price should be taken as reference when converting the mortgaged assets into money or selling the mortgaged assets.

**Article 196**

If the right of mortgage is provided in accordance with Article 181 of this Law, the mortgaged property shall be determined if any of the following circumstances occur:

- (i) Claim is not paid at the maturity of the obligation
- (ii) Bankruptcy or dissolution of the mortgagor;
- (iii) Other circumstances which may seriously affect the enforcement of right of mortgage;
- (iv) Other circumstances which may seriously affect the enforcement of claim

**Article 197**

If the mortgaged property is seized by a People's Court because of the debtor's failure to perform his obligation prior to the maturity of the debt, the mortgagee shall, from the date of seizure, be entitled to collect the natural fruits severed from the mortgaged property and the legal fruits which the mortgagor may collect from the mortgaged property. If the mortgagee fails to notify the person who has the obligation to pay legal fruits of the fact that the mortgaged property is seized, the mortgagee's right shall not extend to such fruits.

The fruits mentioned in the preceding paragraph shall first be used to pay the expenses for collecting the fruits.

**Article 198**

If the proceeds from auction and sales of mortgaged property exceed the claim, the balance shall belong to the mortgagor; if the proceeds do not cover the claim, the difference shall be paid by the debtor.

**Article 199**

Where the same property is mortgaged to two or more creditors, the proceeds from the auction or sale of the mortgaged property shall be used for liquidation according to the following provisions:

- (i) Where a mortgage contract takes effect with its registration, the liquidation shall be made in the order of the time of registration of the mortgaged property; if the registration is in the same order, the liquidation shall be made according to the respective proportions of the claims;
- (ii) The claim secured by registered mortgage shall be satisfied prior to the claim secured by unregistered mortgage;
- (iii) Liquidation of unregistered mortgage shall be made according to the respective proportions of the claims.



**Article 200**

When land use right of construction lot is mortgaged, newly built houses on the land are not mortgaged property. Where it is necessary to auction the land use right to the mortgaged construction lot, the newly-built houses on the land may be disposed of, according to law, together with the mortgaged property, but the mortgagee shall have no right to enjoy the priority of having his claim satisfied with the proceeds from the newly-built houses.

**Article 201**

Where the land-use right prescribed in Article 181 (iii) or the land-use right to the land occupied by the factories and other buildings of a township (town) or village enterprise is mortgaged prescribed in Article 183, the collective ownership and the uses of the land may not be altered without the legal procedure after enforcement of the right of mortgage.

**Article 202**

The holder of security interest shall enforce the security interest upon the expiry of prescribed period for litigation; if the holder of security interest fails to enforce the security interest within such period, it shall not be protected by the People's Court.

**Section II      Maximum Mortgage Right**

**Article 203**

Where a debtor or a third person provides a guarantee with mortgaged property for the claim to be occurred within a given period of time, if the debtor fail to perform his obligations, the mortgagee shall have the priority in satisfying its claim to the extent of the total amount of the claims.

Claim that exists before the establishment of right of mortgage of maximum amount may be converted into the debt secured by the mortgage of maximum amount as agreed by the parties.

**Article 204**

Where part of claim is transferred before the claim secured by the mortgage of maximum amount is determined, the right of mortgage of maximum amount may not be transferred, unless otherwise agreed by the parties.

**Article 205**

Before the determination of claim secured by the mortgage of maximum amount, a mortgagor and mortgagee may change the term, scope and maximum amount of the claim through agreement, provided that such change may not cause any negative impact to other mortgagees.



**Article 206**

The claim of mortgagee is determined under any of the following circumstances:

- (i) Agreed term for determination of claim expires;
- (ii) In absence of an agreed or explicitly agreed term of claim, the mortgagee or mortgagor request to determine the claim upon the expiry of two years as of the date of establishment of right of mortgage of maximum amount;
- (iii) No new claim will occur,
- (iv) The mortgaged property is sealed up or distrained;
- (v) Bankruptcy or dissolution of the debtor or mortgagor;
- (vi) Other circumstances prescribed by law under which a claim is determined.

**Article 207**

The provisions of this section and Section 1 of this Chapter shall apply to right of mortgage of maximum amount.

**Chapter XVII Right of Pledge**

**Section 1 Pledge of Movable Property**

**Article 208**

The debtor or a third party transfers the possession of his movables to the creditor as a security for debt. If the debtor defaults, the creditor shall be entitled to enjoy priority of having his claim satisfied with the proceeds of auction or sale of the pledged property.

The debtor or the third party mentioned in the proceeding paragraph shall be the pledgor, the creditor shall be the pledgee, and the movables transferred shall be the pledged property.

**Article 209**

Movables that transfer is strictly forbidden according to relevant laws and administrative regulations must not be used as security for debt.

**Article 210**

A pledgor and a pledgee shall conclude a pledge contract in writing.

A pledge contract shall include the following particulars:

- (i) The kind and amount of the principal debt secured;
- (ii) The time limit for the debtor to perform his obligation;
- (iii) The name, quantity, quality and condition of the pledged property;
- (iv) The scope of the guarantee of pledge;
- (v) The time for delivering the pledged property.



**Article 211**

A pledgor and a pledgee may not stipulate in the contract that ownership of the pledged property shall be transferred to the pledgee if the obligation is not discharged at its maturity.

**Article 212**

The pledge shall be effective upon delivery of the pledged property.

**Article 213**

The pledgee shall be entitled to collect the fruits derived from the pledged property. If otherwise provided for in the pledge contract, the provisions there shall apply.

The fruits mentioned in the preceding paragraph shall first be used to pay the expenses for collecting the fruits.

**Article 214**

During the existence of the pledge, the pledgee, without consent of the pledgor, shall be civilly liable for any losses arising from his use, lease or disposal of the pledged property.

**Article 215**

The pledgee shall have the obligation to maintain the pledged property in good condition. The pledgee shall be civilly liable for the loss or destruction of or damage to the pledged property resulting from his negligence in storage.

Where the pledgee is unable to maintain the pledged property in good condition and may thus cause loss or destruction of or damage to the pledged property, the pledgor may demand that the pledgee have the pledged property deposited, or demand that his obligation be discharged in advance and the pledged property returned.

**Article 216**

Where there is a possibility for the pledged property to perish or for its value to obviously decline, the pledgee may demand that the pledgor provide additional security in like amount. If the pledgor refuses to provide the additional security, the pledgee may auction or sell the pledged property, and conclude an agreement with the pledgor that the proceeds from the auction or sale shall be used to pay in advance the debt secured or be deposited with a third party as agreed upon with the pledgor.

**Article 217**

During the existence of the pledge, with the consent of the pledgor, the pledgee may transfer the right of pledge. However, the pledgee shall bear civil liability for any loss or destruction of or damage to the pledged property.

**Article 218**



The pledgee may abandon the right of pledge. Where the debtor pledges his own property and the pledgee abandon such right of pledge, then other guarantors may be exempted from their liability to the extent that the pledgee would have the priority in satisfying his claim from the proceeds of auction or sale of the property, unless other guarantors have committed to providing security in any event.

**Article 219**

Where the debtor performs his obligation at its maturity, or where the pledgor pays, prior to maturity, the debt secured, the pledgee shall return the pledged property.

If the pledgee is not paid at the maturity of the obligation, he may conclude an agreement with the pledgor that the pledged property be converted into money in order to pay the debt, or he may enjoy priority of having his claim satisfied with the proceeds of auction or sale of the pledged property.

Market prices shall be used as reference in conversion and/or sale of the pledged property.

**Article 220**

The pledgor may request the pledgee to enforce the right of pledge in a timely manner. Where the pledgee fails to do so, the pledgor may request the court to conduct auction and/or sale of the pledged property.

Where the pledgor requests the pledgee to enforce the right of pledge in a timely manner, the pledgee shall compensate for any losses arising from his delay in exercising his right that is due.

**Article 221**

Where the money converted from the pledged property or the proceeds from auction or sale exceed the debt secured, the balance shall be paid to the pledgor. Where the money or the proceeds do not cover the whole debt secured, the difference shall be paid by the debtor.

**Article 222**

The pledgor and the pledgee may set by mutual agreement a pledge of maximum amount.

The provisions of mortgage of maximum amount set forth in Section 2, Chapter 17 of Part Four, shall apply to the pledge of maximum amount.

**Section 2      Pledge Rights**

**Article 223**

The following rights that a debtor or a third party is entitled to dispose of may be pledged:



- (i) Bills of exchange, cheques, promissory notes;
- (ii) Bonds, certificates of deposit;
- (iii) Warehouse receipts, bills of lading;
- (iv) Shares of stocks or certificates of stocks which are transferable;
- (v) The rights to exclusive use of trademarks, the property right among patent rights and copyrights which are transferable according to law;
- (vi) The right of collecting fees for use of road and power grid infrastructures;
- (vii) Other rights which may be pledged according to laws and administrative regulations.

#### Article 224

Where a bill of exchange, cheque, promissory note, bond, certificate of deposit, warehouse receipt or bill of lading is pledged, the pledgor and the pledgee shall conclude a pledge contract in written form and the document of title shall be effective upon delivery to the pledgee.

#### Article 225

Where a bill of exchange, cheque, promissory note, bond, certificate of deposit warehouse receipt or bill of lading, which carries the date of payment or the date of delivery of goods, is pledged and if the date of its payment or delivery of goods is prior to the time limit for the performance of the obligation, the pledgee may be paid or accept the delivery of the goods, and conclude an agreement with the pledgor that the payment or the goods accepted shall be used to pay in advance the debt secured or be deposited with a third party as agreed upon with the pledgor.

#### Article 226

Where portions of fund and/or shares are pledged, the pledgor and the pledgee shall conclude a pledge contract in writing. Where the portions of fund and/or shares that have been registered with relevant security registration and settlement authority are pledged, the right of pledge shall become effective upon registration with the securities registration authorities. Where the shares of any other kinds are pledged, the right of pledge shall become effective upon registration with the administrative department in charge of commerce and commerce.

The portions of fund and/or shares pledged may not be transferred, unless otherwise agreed by the pledgor and the pledgee. The proceeds the pledgor obtained from the transfer of the portions of fund and/or shares shall be used to pay in advance the pledgee's claims secured, or be deposited with a third party.

#### Article 227

Where the right to exclusive use of trademarks, the property rights among patent rights and copyrights are pledged, the pledgor and the pledgee shall conclude a contract in writing. The right of pledge shall become effective upon registration with the administrative department in charge of commerce and industry.



If the property rights in the foregoing paragraph are pledged, the pledgor may not transfer or permit the right to be used by another, unless otherwise agreed by the pledgee and the pledgor. The proceeds from the transfer or license of use obtained by the pledgor shall be used to pay in advance the pledgee's claims secured or be deposited with a third party.

**Article 228**

Where the right of collecting receivables is pledged, the pledgor and the pledgee shall conclude a contract in writing and the right of pledge shall become effective upon registration with the competent authority.

The right of receivables collection, once it is pledged, shall not be transferred unless otherwise agreed by the pledgee and the pledgor. The proceeds from the transfer of the right shall be used to pay in advance the pledgee's claims secured or be deposited with a third party.

**Article 229**

The pledge of rights is governed not only by the provisions of this Section, but also by the provisions of Section 1 of this Chapter.

## Chapter XIX Lien

**Article 230**

If a debtor defaults in his debt, the creditor shall be entitled to retain the property under legal possession and to the priority of having the debt paid with the money converted from the property or proceeds from sale or auction of the property.

The creditor mentioned in the proceeding two paragraphs shall be the lien holder and the movables possessed shall be the retained property.

**Article 231**

Retained movables shall fall within the scope of creditor's rights except in the case of a retention between enterprises.

**Article 232**

Where the property must not be retained according to law, such law shall prevail. Where the property shall not be retained as agreed upon by the parties concerned, such an agreement shall prevail.

**Article 233**

Where the retained property is dividable, the total amount of the retained property shall be equal to the value of the debt involved.



**Article 234**

The lien holder shall have the obligation to maintain the retained property in good condition. The lien holder shall be civilly liable for loss or destruction of or damage to the retained property resulting from his negligence.

**Article 235**

The lien holder shall be entitled to collect the fruits derived from the retained property.

The fruits mentioned in the preceding paragraph shall first be used to pay fruit collection expenses.

**Article 236**

The lien holder and the debtor shall reach an agreement upon the time limit of the debtor's performance of obligations after the property is retained. In the absence of any agreement or any explicit agreement thereof, the lien holder shall grant a time limit of two (2) months or more for the debtor's performance of obligations, except in the case of movables such as fresh, living and easily decayed goods. If the debtor defaults within the specified time limit, the lien holder may convert the retained property into money upon agreement with the debtor, or enjoy the priority of having the debt paid with the money converted from the property or proceeds from sale or auction of the property.

Market prices shall be used as reference in conversion and/or sale of the retained property.

**Article 237**

The debtor may request the lien holder to enforce the right of lien in a timely manner. Where the lien holder fails to do so, the debtor may request the court to conduct auction and/or sale of the retained property.

**Article 238**

Where the money converted from the retained property or the proceeds from auction or sale exceed the debt secured, their balance shall be paid to the debtor; where the money or proceeds do not cover the entire secured debt; the difference shall be paid by the debtor.

**Article 239**

Where the movable property that have already been mortgaged or pledged are retained at a later time, the lien holder shall enjoy the priority of having the debt paid with the money converted from the property or proceeds from sale or auction of the property.

**Article 240**

Where the lien holder loses his possession of the retained property or accepts other security provided by the debtor, the right of retention shall lapse.



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## PART V POSSESSION

### Chapter XIX Possession

#### Article 241

In the event of possession arising from contractual relationship, the use, benefits and breach liabilities of relevant real property and/or movable property shall be subject to the terms and conditions of contract. In the absence of such contract or in the event of ambiguous terms and conditions thereof, other relevant laws shall apply.

#### Article 242

Where the possessor causes any damage to the real or movable property due to his use of such property, the mala fide possessor shall bear compensation and liability.

#### Article 243

Where the real or movable property is possessed, the relevant right holder may request return of the original item together with any harvest thereof. A bona fide possessor may deduct necessary expenses for maintenance of such property.

#### Article 244

Where the real or movable property is damaged or lost and the relevant right holder requests compensation, the possessor shall return the insurance, damages or any compensation fee to the right holder. Where the losses are not fully recovered by the compensation, mala fide possessor shall further make up for the deficiency except to the extent that he was at no fault with regards to the occurrence of the damage.

#### Article 245

Where the real or movable property is seized by the use of force, the possessor shall have the right to request return of the original property. In the event of any obstruction to the possession, the possessor shall have the right to eliminate the obstruction. In the event of any damage incurred from the seizure or obstruction, the possessor shall have the right to compensation.

The right of request for return of the original property shall lapse if the possessor has not exercised his right within one year of the date of seizure.

### Supplementary Provisions

#### Article 246

Prior to the release of any law and administrative regulations on the scope of real property registration, registration authority and relevant registration methods, relevant local regulations may be formulated by reference to this Law by local People's Congress and its Standing Committee.



**Article 247**

This Law shall take effect as of October 1, 2007.

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