



LIKON LAW
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 INQUIRIES@LIKONLAW.COM

 +84 828 022 279

 SUITE 6A, 6TH FLOOR, HALO BUILDING,
51-53 VO VAN TAN, VO THI SAU WARD,
DISTRICT 3, HO CHI MINH CITY,
VIETNAM

1. Decree No.21/2021/ND-CP dated March 19, 2021 implementing Civil Code on security measures for performance of obligations (“Decree 21/2021/ND-CP”)

Identification of some new collaterals

Decree 21 includes several types of security assets, including, but not limited to:

- (i) land use rights and assets attached to land;
- (ii) assets created from surface rights or from usufruct rights;
- (iii) assets created from surface rights or from usufruct rights;
- (iv) objects with auxiliary objects, integrated objects and special objects;
- (v) valuable papers, securities and the balance of a savings deposit;
- (vi) asset rights arising from a contract;
- (vii) assets formed from capital contribution; and
- (viii) investment projects and assets belonging to an investment.

Acceptance of a mortgage by an individual

Article 35 of Decree 21/2021/ND-CP recognizes the right to accept a mortgage by an individual over a land use right or assets attached to land being used by a family household or individual. In this way, the mortgaged assets by individuals is detailed and recognized at the level of the Decree, instead of Civil Code.

Thus, a person with full civil capacity may mortgage the land use rights since the land and assets attached to the land are being used by individuals or households. A mortgage loan (with interest payment) shall be calculated in accordance with the current provisions of the Civil Code regarding interest, deferred payment interest, etc. As outlined in the regulation, the regulation is intended to provide a legal gateway between individuals, households and organizations that aren't credit institutions in many financial activities.

Establishment and performance of security contract, security measures by common property of husband and wife

This can be seen as a new point mentioned in Decree 21/2021/ND-CP. Accordingly, in the event a husband and wife reach an agreement on using a common property by him/her to contribute capital to an economic organization, that he/she may establish and perform a security contract or security measures related to the common property by himself or herself. Although there is no agreement between the husband and wife on the use of the common property to contribute capital, either party establishes and performs a security contract security measures related to common property that shall be construed as having reached an agreement between them if the other party knows without objection.

When a divorce occurs between a husband and wife, either of them who established the security contract or security measure can continue to implement it, unless otherwise decided in court.



Handle of secure transactions

In terms of the institutions permitted to handle collaterals, Decree 21/2021/ND-CP uses the phrase “to handle collaterals” instead of “to realize mortgaged, pledged assets” showing that the provisions shall be applied for different types of securities, not only for pledge and mortgage as set out in the previous Decree.

Security assets are handled according to Article 49 to Article 59 of the Decree, where lenders and borrowers should pay attention to the following issues:

- a) Firstly, the handling of security assets must be in accordance with the contractual agreements (pledge/mortgage agreements) and the provisions of law, and at the same time, it is only necessary to notify the collateral owners or lenders 10 days in advance (15 days for real estate) when it is time for the secured party to handle the security assets.

This is a new regulation, which makes it easier for the secured party to handle collaterals, and it takes away the secured party's initiative. In order to avoid unnecessary damages, borrowers that have collaterals need to develop an accurate security contract and understand the relevant laws.

- b) Secondly, during the waiting period, the security assets of borrowers under the management of the secured party must be preserved and preserved by the secured party. However, the profits generated from exploitation of secured assets must be used to pay for the secured obligation and not under the ownership of the secured party.
- c) Third, borrowers may still receive the collateral before the asset disposal is complete if:
 - (i) before the time of disposing of the security property, if the securing party fully performs its obligations towards the secured party and pays expenses arising from late performance, it is entitled to receive such property back;
 - (ii) the security property has been replaced or exchanged with another property;
 - (iii) the secured obligation has been paid by the obligatory clearing method; and
 - (iv) other cases as agreed or prescribed by the Civil Code or other relevant laws that the security property shall not be handled.



2. New regulations on construction contract in Decree No. 50/2021/ND-CP dated 1 April 2021 stipulating construction contracts (“Decree 50/2021/ND-CP”)

Scope of application is extended

Previously, Decree No.37/2015/ND-CP dated April 22, 2015 detailed regulations on construction contract (“**Decree 37/2015/ND-CP**”) is applied only to projects using “state capital, corporate capital from 30% and over or from under 30% to over VND 500 billion of total project investment capital”. Decree 50/2021/ND-CP broadens the scope of application to include “projects that utilize public investment capital, and construction contracts between PPP project enterprises and construction contractors implementing bidding packages of investment projects under the public-private partnership model”. With Decree 50, any projects using state capital, regardless of the percentage, including PPP projects, will be subject to the provisions of Decree 37/2015/ND-CP and Decree 50/2021/ND-CP.

Construction contracts and variations in PPP projects were often subject to flexible negotiations and handlings. Besides, government contributions would often take form of land leases or access to land, meaning that actual working capital would come from private parties. Thus, PPP’s private investors might find Decree 50/2021/ND-CP negative because it curtails flexibility.

New types of construction contracts are introduced

Decree 50/2021/ND-CP introduces two new types of contracts: (i) simple and small-scale construction contracts, and (ii) fee plus cost-based construction contracts.

According to the Law on Bidding, a simple and small-scale construction contract is a contract that executes bidding packages, but which has a value that does not exceed that of a small-sized bidding package. The construction contract of small projects has been optimized by removing some unnecessary procedures.

The fee plus cost-based construction contract is not a new type of construction contract per se. Despite being stipulated in Article 140 of Construction Law 2014, it is not addressed in Decree 37/2015/ND-CP.



| DATE OF ISSUE | NO. | NAME OF DOCUMENT | ISSUED BY | MAIN CONTENTS |
|---------------|----------------|------------------|---------------------|--|
| 09/03/2021 | 17/2021/ND-CP | Decree | Government | Regulating amounts of vocational training support for employees participating in unemployment insurance |
| 24/02/2021 | 12/2021/ND-CP | Decree | Government | Amending Decree 89/2013/NĐ-CP providing instructions on appraisal prescribed in the Law on Prices |
| 17/05/2021 | 32/2021/TT-BTC | Circular | Minister of Finance | Guide to selling shares for the first time and managing and using proceeds from equitization of state-owned enterprises and one-member limited liability companies with 100% charter capital invested by state-owned enterprises and successfully converted joint stock company. |
| 26/5/2021 | 36/2021/TT-BTC | Circular | Minister of Finance | Guidance on some contents on investment of state capital in enterprises and management and use of capital and assets in enterprises |
| 27/05/2021 | 37/2021/TT-BTC | Circular | Minister of Finance | Annuling the Circular No. 179/2021/TT-BTC dated October 24, 2012 of the Minister of Finance providing for the recording, assessment and handling of exchange rate differences in enterprises. |



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|----------------|--------------------|----------|------------------------|---|
| 02/06/ 2021 | 41/2021/TT- BTC | Circular | Minister of Finance | Guidance on organization, operation, management, use and accounting, settlement and financial disclosure of the Vietnam Covid-19 Vaccine Fund. |
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