

中华人民共和国城镇国有土地使用权出让和转让暂行条例

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根据2020年11月29日《国务院关于修改和废止部分行政法规的决定》修订)

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第一章 总则

第一条 为了改革城镇国有土地使用制度，合理开发、利用、经营土地，加强土地管理，促进城市建设和经济发展，制定本条例。

第二条 国家按照所有权与使用权分离的原则，实行城镇国有土地使用权出让、转让制度，但地下资源、埋藏物和市政公用设施除外。

前款所称城镇国有土地是指市、县城、建制镇、工矿区范围内属于全民所有的土地(以下简称土地)。

第三条 中华人民共和国境内外的公司、企业、其他组织和个人，除法律另有规定者外，均可依照本条例的规定取得土地使用权，进行土地开发、利用、经营。

第四条 依照本条例的规定取得土地使用权的土地使用者，其使用权在使用年限内可以转让、出租、抵押或者用于其他经济活动，合法权益受国家法律保护。

第五条 土地使用者开发、利用、经营土地的活动，应当遵守国家法律、法规的规定，并不得损害社会公共利益。

第六条 县级以上人民政府土地管理部门依法对土地使用权的出让、转让、出租、抵押、终止进行监督检查。

第七条 土地使用权出让、转让、出租、抵押、终止及有关的地上建筑物、其他附着物的登记，由政府土地管理部门、房产管理部门依照法律和国务院的有关规定办理。

登记文件可以公开查阅。

第二章 土地使用权出让

第八条 土地使用权出让是指国家以土地所有者的身份将土地使用权在一定年限内让与土地使用者，并由土地使用者向国家支付土地使用权出让金的行为。

土地使用权出让应当签订出让合同。

第九条 土地使用权的出让，由市、县人民政府负责，有计划、有步骤地进行。

第十条 土地使用权出让的地块、用途、年限和其他条件，由市、县人民政府土地管理部门会同城市规划和建设管理部门、房产管理部门共同拟定方案，按照国务院规定的批准权限报经批准后，由土地管理部门实施。

第十一条 土地使用权出让合同应当按照平等、自愿、有偿的原则，由市、县人民政府土地管理部门(以下简称出让方)与土地使用者签订。

第十二条 土地使用权出让最高年限按下列用途确定：

(一)居住用地七十年；

(二)工业用地五十年；

(三)教育、科技、文化、卫生、体育用地五十年；

(四)商业、旅游、娱乐用地四十年；

(五)综合或者其他用地五十年。

第十三条 土地使用权出让可以采取下列方式：

(一)协议；

(二)招标；

(三)拍卖。

依照前款规定方式出让土地使用权的具体程序和步骤，由省、自治区、直辖市人民政府规定。

第十四条 土地使用者应当在签订土地使用权出让合同后六十日内，支付全部土地使用权出让金。逾期未全部支付的，出让方有权解除合同，并可请求违约赔偿。

第十五条 出让方应当按照合同规定，提供出让的土地使用权。未按合同规定提供土地使用权的，土地使用者有权解除合同，并可请求违约赔偿。

第十六条 土地使用者在支付全部土地使用权出让金后，应当依照规定办理登记，领取土地使用证，取得土地使用权。

第十七条 土地使用者应当按照土地使用权出让合同的规定和城市规划的要求，开发、利用、经营土地。

未按合同规定的期限和条件开发、利用土地的，市、县人民政府土地管理部门应当予以纠正，并根据情节可以给予警告、罚款直至无偿收回土地使用权的处罚。

第十八条 土地使用者需要改变土地使用权出让合同规定的土地用途的，应当征得出让方同意并经土地管理部门和城市规划部门批准。依照本章的有关规定重新签订土地使用权出让合同，调整土地使用权出让金，并办理登记。

第三章 土地使用权转让

第十九条 土地使用权转让是指土地使用者将土地使用权再转移的行为，包括出售、交换和赠与。

未按土地使用权出让合同规定的期限和条件投资开发、利用土地的，土地使用权不得转让。

第二十条 土地使用权转让应当签订转让合同。

第二十一条 土地使用权转让时，土地使用权出让合同和登记文件中所载明的权利、义务随之转移。

第二十二条 土地使用者通过转让方式取得的土地使用权，其使用年限为土地使用权出让合同规定的使用年限减去原土地使用者已使用年限后的剩余年限。

第二十三条 土地使用权转让时，其地上建筑物、其他附着物所有权随之转让。

第二十四条 地上建筑物、其他附着物的所有人或者共有人，享有该建筑物、附着物使用范围内的土地使用权。

土地使用者转让地上建筑物、其他附着物所有权时，其使用范围内的土地使用权随之转让，但地上建筑物、其他附着物作为动产转让的除外。

第二十五条 土地使用权和地上建筑物、其他附着物所有权转让，应当依照规定办理过户登记。

土地使用权和地上建筑物、其他附着物所有权分割转让的，应当经市、县人民政府土地管理部门和房产管理部门批准，并依照规定办理过户登记。

第二十六条 土地使用权转让价格明显低于市场价格的，市、县人民政府有优先购买权。

土地使用权转让的市场价格不合理上涨时，市、县人民政府可以采取必要的措施。

第二十七条 土地使用权转让后，需要改变土地使用权出让合同规定的土地用途的，依照本条例第十八条的规定办理。

第四章 土地使用权出租

第二十八条 土地使用权出租是指土地使用者作为出租人将土地使用权随同地上建筑物、其他附着物租赁给承租人使用，由承租人向出租人支付租金的行为。

未按土地使用权出让合同规定的期限和条件投资开发、利用土地的，土地使用权不得出租。

第二十九条 土地使用权出租，出租人与承租人应当签订租赁合同。

租赁合同不得违背国家法律、法规和土地使用权出让合同的规定。

第三十条 土地使用权出租后，出租人必须继续履行土地使用权出让合同。

第三十一条 土地使用权和地上建筑物、其他附着物出租，出租人应当依照规定办理登记。

第五章 土地使用权抵押

第三十二条 土地使用权可以抵押。

第三十三条 土地使用权抵押时，其地上建筑物、其他附着物随之抵押。

地上建筑物、其他附着物抵押时，其使用范围内的土地使用权随之抵押。

第三十四条 土地使用权抵押，抵押人与抵押权人应当签订抵押合同。

抵押合同不得违背国家法律、法规和土地使用权出让合同的规定。

第三十五条 土地使用权和地上建筑物、其他附着物抵押，应当依照规定办理抵押登记。

第三十六条 抵押人到期未能履行债务或者在抵押合同期间宣告解散、破产的，抵押权人有权依照国家法律、法规和抵押合同的规定处分抵押财产。

因处分抵押财产而取得土地使用权和地上建筑物、其他附着物所有权的，应当依照规定办理过户登记。

第三十七条 处分抵押财产所得，抵押权人有优先受偿权。

第三十八条 抵押权因债务清偿或者其他原因而消灭的，应当依照规定办理注销抵押登记。

第六章 土地使用权终止

第三十九条 土地使用权因土地使用权出让合同规定的使用年限届满、提前收回及土地灭失等原因而终止。

第四十条 土地使用权期满，土地使用权及其地上建筑物、其他附着物所有权由国家无偿取得。土地使用者应当交还土地使用证，并依照规定办理注销登记。

第四十一条 土地使用权期满，土地使用者可以申请续期。需要续期的，应当依照本条例第二章的规定重新签订合同，支付土地使用权出让金，并办理登记。

第四十二条 国家对土地使用者依法取得的土地使用权不提前收回。在特殊情况下，根据社会公共利益的需要，国家可以依照法律程序提前收回，并根据土地使用者已使用的年限和开发、利用土地的实际状况给予相应的补偿。

第七章 划拨土地使用权

第四十三条 划拨土地使用权是指土地使用者通过各种方式依法无偿取得的土地使用权。

前款土地使用者应当依照《中华人民共和国城镇土地使用税暂行条例》的规定缴纳土地使用税。

第四十四条 划拨土地使用权，除本条例第四十五条规定的情况外，不得转让、出租、抵押。

第四十五条 符合下列条件的，经市、县人民政府土地管理部门和房产管理部门批准，其划拨土地使用权和地上建筑物、其他附着物所有权可以转让、出租、抵押：

(一)土地使用者为公司、企业、其他经济组织和个人；

(二)领有国有土地使用证；

(三)具有地上建筑物、其他附着物合法的产权证明；

(四)依照本条例第二章的规定签订土地使用权出让合同，向当地市、县人民政府补交土地使用权出让金或者以转让、出租、抵押所获收益抵交土地使用权出让金。

转让、出租、抵押前款划拨土地使用权的，分别依照本条例第三章、第四章和第五章的规定办理。

第四十六条 对未经批准擅自转让、出租、抵押划拨土地使用权的单位和个人，市、县人民政府土地管理部门应当没收其非法收入，并根据情节处以罚款。

第四十七条 无偿取得划拨土地使用权的土地使用者，因迁移、解散、撤销、破产或者其他原因而停止使用土地的，市、县人民政府应当无偿收回其划拨土地使用权，并可依照本条例的规定予以出让。

对划拨土地使用权，市、县人民政府根据城市建设发展需要和城市规划的要求，可以无偿收回，并可依照本条例的规定予以出让。

无偿收回划拨土地使用权时，对其地上建筑物、其他附着物，市、县人民政府应当根据实际情况给予适当补偿。

第八章 附则

第四十八条 依照本条例的规定取得土地使用权的个人，其土地使用权可以继承。

第四十九条 土地使用者应当依照国家税收法规的规定纳税。

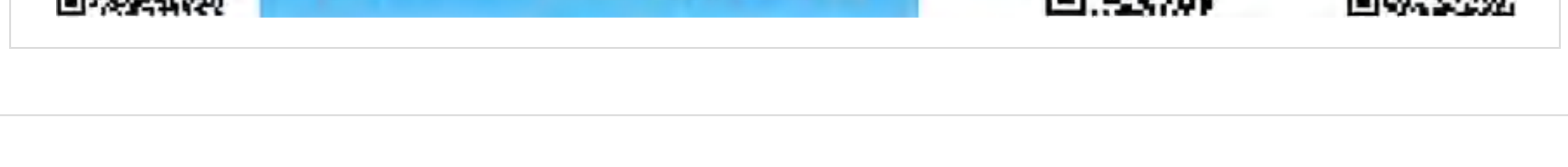
第五十条 依照本条例收取的土地使用权出让金列入财政预算，作为专项基金管理，主要用于城市建设和土地开发。具体使用管理办法，由财政部另行制定。

第五十一条 各省、自治区、直辖市人民政府应当根据本条例的规定和当地实际情况选择部分条件比较成熟的城镇先行试点。

第五十二条 本条例由国家土地管理局负责解释；实施办法由省、自治区、直辖市人民政府制定。

第五十三条 本条例自发布之日起施行。

【我要纠错】 责任编辑：刘佳慧



国务院	总理	新闻	政策	互动	服务	数据	国情
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Interim Regulations of the People's Republic of China Concerning the Assignment and Transfer of the Right to the Use of the State-owned Land in the Urban Areas (2020 Revision)

中华人民共和国城镇国有土地使用权出让和 转让暂行条例(2020 修订)

Interim Regulations of the People's Republic of China Concerning the Assignment and Transfer of the Right to the Use of the State-owned Land in the Urban Areas (Promulgated by the Order No.55 of the State Council of the People's Republic of China on May 19, 1990; revised in accordance with the Decision of the State Council to Amend and Repeal Certain Administrative Regulations on November 29, 2020.)

CHAPTER I GENERAL PROVISIONS

Article 1. These Regulations are formulated in order to reform the system of using the State-owned land in the urban areas, rationally develop, utilize and manage the land, strengthen land administration and promote urban construction and economic development.

Article 2. The State, in accordance with the principle of the ownership being separated from the right to the use of the land, implements ten system whereby the right to the use of the State-owned land in the urban areas may be assigned and transferred, with the exclusion of the underground resources, the objects buried underground, and the public works.

The term "State-owned land in the urban areas~ as used is the preceding paragraph refers to the land owned by the whole people (hereinafter referred to as "the land~) within the limits of cities, county sites, administrative towns and industrial and mining areas.

Article 3. Any company, enterprise, other organization and individual within or outside the People's Republic of China may, unless otherwise provided by law, obtain the right to the use of the land and engage in land development, utilization and management in accordance with the provisions of these Regulations.

Article 4. Users of the land who have obtained the right to the use of the land in accordance with these Regulations may, within the term of land use, transfer, lease, or mortgage the right to the use of the land or use it for other economic activities, and their lawful rights and interests shall be protected by the laws of the State.



[FBM]CLI.2.348773(EN)

Article 5. Users of the land shall, in their activities to develop, utilize and manage the land, abide by the laws and regulations of the state and may not jeopardize the interests of the society and the public.

Article 6. The land administrative departments under the people's governments at or above the county level shall conduct supervision and inspection, according to law, over the assignment, transfer, lease, mortgage and termination of the right to the use of the land.

Article 7. The registration of the assignment, transfer, lease, mortgage and termination of the right to the use of the registration of the above-ground buildings and other attached objects shall be handled by the land administration department and housing administration departments of the government in accordance with the law and pertinent regulations of the State Council.
The registration documents shall be made available for public reference.

CHAPTER II THE ASSIGNMENT OF THE RIGHT TO THE USE OF THE LAND

Article 8. The assignment of the right to the use of the land refers to the act of the State as the owner of the land who, within the term of a certain number of years, assigns the right to the use of the land to land users, who shall in turn pay fees for the assignment thereof to the State.
An assignment contract shall be signed for assigning the right to the use of the land.

Article 9. People's governments at the municipal and county levels shall be in charge of assigning the right to the use of the land, which shall be effected in a planned, step-by-step way.

Article 10. The land administration departments under the people's governments at the municipal and county levels shall, in conjunction with the administrative departments for urban planning and construction and the housing administration departments, draw up a plan concerning the size and location, the purposes, the term, and other conditions with respect to the assigning of the right to the use of the land. The plan shall be submitted for approval in accordance with the limits of authority for approval as stipulated by the State Council and shall then be implemented by the land administration departments.

Article 11. The contract for assigning the right to the use of the land shall be signed by and between the land administration departments under the people's governments at the municipal and county levels (hereinafter referred to as "the assigning party~") and the land users in accordance with the principle of equality, voluntariness and compensation for use.

Article 12. The maximum term with respect to the assigned right to the use of the land shall be determined respectively in the light of the purposes listed below:

- (1) 70 years for residential purposes;
- (2) 50 years for industrial purposes;
- (3) 50 years for the purposes of education, science, culture, public health and physical education;
- (4) 40 years for commercial, tourist and recreational purposes; and



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(5) 50 years for comprehensive utilization or other purposes.

Article 13. The assignment of the right to the use of the land may be carried out by the following means:

- (1) by reaching an agreement through consultations;
- (2) by invitation to bid; or
- (3) by auction.

The specific procedures and steps for assigning the right to the use of the land by the means stipulated in preceding paragraphs shall be formulated by the people's government of relevant province, autonomous region, or municipality directly under the Central Government.

Article 14. The land user shall, within 60 days of the signing of the contract for the assignment of the right to the use of the land, pay the total amount of the assignment fee thereof, failing which, the assigning party shall have the right to terminate the contract and may claim compensation for breach of contract.

Article 15. The assigning party shall, in compliance with the stipulations of the contract, provide the right to the use of the land thus assigned, failing which, the land user shall have the right to terminate the contract and may claim compensation for breach of contract.

Article 16. After paying the total amount of the fee for the assignment of the right to the use of the land, the land user shall, in accordance with the relevant provisions, go through the registration thereof, obtain the certificate for land use and accordingly the right to the use of the land.

Article 17. The land user shall, in conformity with the stipulations of the contract for the assignment of the right to the use of land and the requirements of city planning, develop, utilize and manage the land.

Should any land user fail to develop and utilize the land in accordance with the period of time specified in the contract and the conditions therein, the land administration departments under the people's governments at the municipal and county levels shall make corrections and, in light of the seriousness of the case, give such penalties as a warning, a fine or, in an extreme case, with drawing the right to the use of the land without compensation.

Article 18. If the land user needs to alter the purposes of land use as stipulated in the contract for assigning the right to the use of land, he shall obtain the consent of the assigning party and the approval of the land administration department and the urban planning department and shall, in accordance with the relevant provisions in this Chapter, sign a new contract for assigning the right to the use of the land, readjust amount of the assignment fee thereof, and undertake registration anew.

CHAPTER III THE TRANSFER OF THE RIGHT TO THE USE OF THE LAND

Article 19. The transfer of the right to the use of the land refers to the land user's act of re-assigning the right to the use of the land, including the sale, exchange, and donation thereof.

If the land has not been developed and utilized in accordance with the period of time



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specified in the contract and the conditions therein, the right to the use thereof may not be transferred.

Article 20. A transfer contract shall be signed for the transfer of the right to the use of the land.

Article 21. With the transfer of the right to the use of the land, the rights and obligations specified in the contract for assigning the right to the use of the land and in the registration documents shall be transferred accordingly.

Article 22. The land user who has acquired the right to the use of the land by means of the transfer thereof shall have a term of use which is the remainder of the term specified in the contract for assigning the right to the use of the land minus the number of the years in which the original land user has used the land.

Article 23. With the transfer of the right to the use of the land, the ownership of the above-ground buildings and other attached objects shall be transferred accordingly.

Article 24. The owners or joint owners of the above-ground buildings and other attached objects shall have the right to the use of the land within the limits of use of the said buildings and objects.

With the transfer of the ownership of the above-ground buildings and other attached objects by the land users, the right to the use of the land within the limits of use of the said buildings and objects shall be transferred accordingly, with the exception of the movables.

Article 25. With respect to the transfer of the right to the use of the land and of the ownership of the above-ground buildings and other attached objects, registration for the transfer shall be undertaken in accordance with the relevant provisions. Divided transfer of the right to the use of the land and of the ownership of the above-ground buildings and other attached objects shall be subject to the approval of the land administration department and the housing administration departments under the people's governments at the municipal and county levels, and registration for the divided transfer shall be undertaken in accordance with the relevant provisions.

Article 26. When the transfer of the right to the use of the land is priced at a level obviously lower than the prevailing market price, the people's governments at the municipal and county levels shall have the priority of the purchase thereof. When the market price for the transfer of the right to the use of the land rises to an unreasonable extent, the people's governments at the municipal and county levels may take necessary measures to cope with it.

Article 27. If, after the transfer of the right to the use of the land, necessity arises for altering the purposes of land use as stipulated in the contract for assigning the right to the use of the land, it shall be handled in accordance with the provisions in Article 18 of these Regulations.

CHAPTER IV THE LEASE OF THE RIGHT TO THE USE OF THE LAND

Article 28. The lease of the right to the use of the land refers to the act of the land user



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as the lessor to lease the right to the use of the land together with the above-ground buildings and other attached objects to the lessee for use who shall in turn pay lease rentals to the lessor.

If the land has not been developed and utilized in accordance with the period of time specified in the contract and the conditions therein, the right to the use thereof may not be leased.

Article 29. A lease contract shall be signed for leasing the right to the use of the land by and between the lessor and the lessee.

The lease contract shall not run counter to the laws and regulations of the State or the stipulations of the contract for assigning the right to the use of the land.

Article 30. After leasing the right to the use of the land the lessee must continue to perform the contract for assigning the right to the use of the land.

Article 31. With respect to the lease of the right to the use of the land together with the above-ground buildings and other attached objects, the lessee shall undertake registration in accordance with the relevant provisions.

CHAPTER V THE MORTGAGE OF THE RIGHT TO THE USE OF THE LAND

Article 32. The right to the use of the land may be mortgaged.

Article 33. With the mortgage of the right to the use of the land, the above-ground buildings and other attached objects thereon shall be mortgaged accordingly.

With the above-ground buildings and other attached objects, the right to the use of the land within the limits of use of the said buildings and objects shall be mortgaged accordingly.

Article 34. A mortgage contract shall be signed for mortgaging the right to the use of the land by and between the mortgagor and the mortgagee.

The mortgage contract shall not run counter to the laws and regulations of the State or the stipulations of the contract for assigning the right to the use of the land.

Article 35. With respect to the mortgage of the right to the use of the land together with the above-ground buildings and other attached objects, registration for the mortgage shall be undertaken in accordance with the relevant provisions.

Article 36. If the mortgagor fails to fulfil liabilities within the prescribed period of time or declares dissolution or bankruptcy within the term of the mortgage contract, the mortgagee shall have the right to dispose of the mortgaged property in accordance with the laws and regulations of the State and the stipulations of the mortgage contract. With respect to the right to the use of the land and the ownership of the above-ground buildings and other attached objects acquired as a result of the disposal of the mortgaged property, transfer registration shall be undertaken in accordance with the relevant provisions.

Article 37. The mortgagee shall have the priority of compensation with respect to the receipts resulting from the disposal of the mortgaged property.



[FBM]CLI.2.348773(EN)

Article 38. If the mortgage is eliminated as a result of the liquidation of liabilities or for other reasons, procedures shall be undertaken to nullify the mortgage registration.

CHAPTER VI THE TERMINATION OF THE RIGHT TO USE OF THE LAND

Article 39. The right to the use of the land shall terminate for such reasons as the expiration of the term of use as stipulated in the contract for assigning the right to the use of the land, the withdrawal of the right before the expiration, or the loss of the land.

Article 40. Upon expiration of the term of use, the right to the use of the land and the ownership of the above-ground buildings and other attached objects thereon shall be acquired by the State without compensation. The land user shall surrender the certificate for land use and undertake procedures to nullify the registration.

Article 41. Upon expiration of the term of use, the land user may apply for its renewal. Where such a renewal is necessary, a new contract shall be signed in accordance with the provisions in Chapter II of these Regulations and the land user shall pay the fee for the assignment of the right to the use of the land and undertake registration.

Article 42. The State shall not withdraw before the expiration of the term of use the right to the use of the land which the land user acquired in accordance with the law. Under special circumstances, the State may, based on the requirements of social public interests, withdraw the right before the expiration of the term of use in line with the relevant legal procedures and shall, based on the number of years in which the land user has used the land and the actual state of affairs with respect to the development and utilization of the land, offer corresponding compensation.

CHAPTER VII THE ALLOCATED RIGHT TO THE USE OF THE LAND

Article 43. the allocated right to the use of the land refers to the right to the use of the land which the land user acquires in accordance with the law, by various means, and without compensation.

The land user referred to in the preceding paragraph shall pay tax for the use of the land in accordance with the provisions of the [Interim Regulations of the People's Republic of China Concerning the Tax for the Use of the Land in the Urban Areas](#).

Article 44. The allocated right to the use of the land may not be transferred, leased, or mortgaged, with the exception of cases as specified in Article 45 of these Regulations.

Article 45. On condition that the following requirements are satisfied, the allocated right to the use of the land and the ownership of the above-ground buildings and other attached objects may, subject to the approval of the land administration departments and the housing administration departments under the people's governments at the municipal and county levels, be transferred, leased or mortgaged:

- (1) The land users are companies, enterprises, or other economic organizations, or individuals;
- (2) A certificate for the use of state-owned land had been obtained;
- (3) Possessing legitimate certificates of property rights to the above-ground buildings and other attached objects; and



[FBM]CLI.2.348773(EN)

(4) A contract for assigning the right to the use of land is signed in accordance with the provisions in Chapter II of these Regulations and the land user makes up for the payment of the assignment fee to the local municipal or county people's government or uses the proceeds resulting from the transfer, lease or mortgage to pay the assignment fee.

The transfer, lease or mortgage of the allocated right to the use of the land referred to in preceding paragraphs shall be handled respectively in accordance with the provisions in Chapters III, IV and V of these Regulations.

Article 46. Any units or individuals that transfer, lease or mortgage the allocated right to the use of the land without authorization shall have their illegal incomes thus secured confiscated by the land administration departments under the people's governments at the municipal and county levels and shall be fined in accordance with the seriousness of the case.

Article 47. If the land user who has acquired the allocated right to the use of the land without compensation stops the use thereof as a result of moving to another site, dissolution, disbandment, or bankruptcy or for other reasons, the municipal or county people's government shall withdraw the allocated right to the use of the land without compensation and may assign it in accordance with the relevant provisions of these Regulations.

The municipal or county people's government may, based on the needs of urban construction and development and the requirements of urban planning, withdraw the allocated right to the use of the land without compensation and may assign it in accordance with the relevant provisions of these Regulations.

When the allocated right to the use of the land is withdrawn without compensation, the municipal or county people's government shall, in the light of the actual state of affairs, give due compensation for the above-ground buildings and other attached objects thereon.

CHAPTER VIII SUPPLEMENTARY PROVISIONS

Article 48. The right to the use of the land may be inherited if it is acquired by individuals in accordance with the provisions of these Regulations.

Article 49. The land user shall pay tax in accordance with the provisions of the tax laws and regulations of the State.

Article 50. Fees collected by assigning the right to the use of the land in accordance with these Regulations shall be included in the fiscal budget and managed as a special fund, which shall be used mainly for urban construction and land development. The specific measures for the use and management of the fund shall be separately prescribed by the Ministry of Finance.

Article 51. The people's governments of various provinces, autonomous regions and municipalities directly under the Central Government shall, in accordance with the Provisions of these Regulations and with the actual state of affairs in their respective localities, select as their pilot testing grounds some of the cities or towns where conditions are relatively ripe.



[FBM]CLI.2.348773(EN)

Article 52. The State Administration for Land Uses shall be responsible for the interpretation of these Regulations; the measures for the implementation thereof shall be formulated by the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government.

Article 53. These Regulations shall go into effect as of the date of promulgation.



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