

THE REAL RIGHTS LAW
OF
THE PEOPLES' REPUBLIC OF CHINA
(PART I)

中华人民共和国

物权法

(第一编)

Bilingual English-Chinese Version

With

English Article Headings

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Part One. General Provisions

第一编 总 则

Chapter One Basic Principles

第一章 基本原则

1. Purposes

This Law is formulated in accordance with the Constitution, in order to safeguard the basic economic system of the nation, to safeguard socialist market economic order, to clearly delineate the attribution of ownership to things, to promote the utilities of things, and to protect the real rights of rights holders.

为了维护国家基本经济制度，维护社会主义市场经济秩序，明确物的归属，发挥物的效用，保护权利人的物权，根据宪法，制定本法。

2. Scope of Application; Object of Real Rights; Real Rights Defined; Categories of Real Rights

This Law applies to civil relationships arising from the attribution of ownership to things and the exploitation thereof.

For purposes of this Law, a thing is either an immovable or a movable. Where the relevant Law provides that a proprietary right be the object of real rights, such provision shall apply.

For purposes of this Law, real rights refer to the ability of a rights holder to directly exercise, and to exclude others from exercising, dominion over an identified thing in accordance with the law, and encompass ownership, usufruct and lien.

因物的归属和利用而产生的民事关系，适用本法。

本法所称物，包括不动产和动产。法律规定权利作为物权客体的，依照其规定。

本法所称物权，是指权利人依法对特定的物享有直接支配和排他的权利，包括所有权、用益物权和担保物权。

3. Ownership Elements in Socialist Market Economic System

During the primary stage of socialism, the state adheres to the basic economic system wherein public ownership is the principal element, and diversified ownership elements develop jointly.

The state solidifies and develops public ownership economic element, and encourages, supports and guides the development of non-public ownership economic elements.

The state adopts a socialist market economic system, and safeguards the equal legal standing and the development rights of all market subjects.

国家在社会主义初级阶段，坚持公有制为主体、多种所有制经济共同发展的基本经济制度。

国家巩固和发展公有制经济，鼓励、支持和引导非公有制经济的发展。

国家实行社会主义市场经济，保障一切市场主体的平等法律地位和发展权利。

4. Sanctity of Real Rights

The real rights of the state, the collectives and private persons, as well as the real rights of other rights holders, are protected by law, and no entity or individual may infringe on such rights.

国家、集体、私人的物权和其他权利人的物权受法律保护，任何单位和个人不得侵犯。

5. Categories of Real Rights Prescribed by Law

Categories of real rights and their contents are prescribed by the relevant Law.

物权的种类和内容，由法律规定。

6. Publication of Real Rights

Creation, alteration, transfer or extinguishment of a real right in an immovable is subject to registration in accordance with the provisions of the relevant Law. Creation or transfer of a real right in a movable is subject to delivery in accordance with the provisions of the relevant Law.

不动产物权的设立、变更、转让和消灭，应当依照法律规定登记。动产物权的设立和转让，应当依照法律规定交付。

7. Appropriation and Exercise of Real Rights

The appropriation and exercise of real rights shall be undertaken in compliance with the relevant Law and in observance of social ethics, and may not prejudice public interests and the lawful rights and interests of other persons.

物权的取得和行使，应当遵守法律，尊重社会公德，不得损害公共利益和他人合法权益。

8. Applicability of Other Laws

Where another relevant law specially provides otherwise in respect of a particular real right, such provision shall apply.

其他相关法律对物权另有特别规定的，依照其规定。

Chapter Two Creation, Alteration, Transfer and Extinguishment of Real Rights

第二章 物权的设立、变更、转让和消灭

Section One Registration of Immovables

第一节 不动产登记

9. Vesting of Real Rights in Immovables

Creation, alteration, transfer or extinguishment of a real right in an immovable takes effect upon registration in accordance with the law; and the above shall not take effect unless registration is undertaken, except as otherwise provided by the relevant Law.

For natural resources which belong to the state under the law, ownership in them may be vested without registration.

不动产物权的设立、变更、转让和消灭，经依法登记，发生法律效力；未经登记，不发生法律效力，但法律另有规定的除外。

依法属于国家所有的自然资源，所有权可以不登记。

10. Uniform Scheme for Registration of Immovables

Registration of an immovable shall be undertaken by the registrar in the place where it is located.

The state adopts a uniform registration scheme for immovables. The relevant laws and Administrative Regulations shall prescribe the scope of immovables subject to uniform registration, the particulars of the registrar, and the manner of registration.

不动产登记，由不动产所在地的登记机构办理。

国家对不动产实行统一登记制度。统一登记的范围、登记机构和登记办法，由法律、行政法规规定。

11. Documents Required for Immovable Registration

In applying for registration, a party shall, in light of the particulars of the registration, submit the required materials such as certificate of rights, the boundaries and area of the subject immovable, etc.

当事人申请登记，应当根据不同登记事项提供权属证明和不动产界址、面积等必要材料。

12. Duties of Registrar of Immovables

The registrar shall perform the following duties:

- (1) Verifying the certificate of rights and other required materials submitted by the applicant;
- (2) Querying the applicant on the relevant registration items;
- (3) Recording the relevant registration items truthfully and timely; and
- (4) Other duties prescribed by the relevant Laws and Administrative Regulations.

The registrar may require the applicant to supplement the submitted materials where further proof regarding the particulars of the subject immovable is required, and may conduct on-site inspection when necessary.

登记机构应当履行下列职责：

- (一) 查验申请人提供的权属证明和其他必要材料；
- (二) 就有关登记事项询问申请人；
- (三) 如实、及时登记有关事项；
- (四) 法律、行政法规规定的其他职责。

申请登记的不动产的有关情况需要进一步证明的，登记机构可以要求申请人补充材料，必要时可以实地查看。

13. Prohibited Acts by Registrar of Immovables

The registrar may not engage in any of the following acts:

- (1) Requiring that the subject immovable be appraised;
- (2) Undertaking repetitive registration under the pretext of annual inspection or any other pretext; or
- (3) Any other act beyond the scope of registration duties.

登记机构不得有下列行为：

- (一) 要求对不动产进行评估;
- (二) 以年检等名义进行重复登记;
- (三) 超出登记职责范围的其他行为。

14. Time of Creation or Extinguishment of Real Rights in Immovables

Where the creation, alteration, transfer or extinguishment of a real right in an immovable requires registration under the applicable law, the above shall take effect upon recordation in the register of immovables.

不动产物权的设立、变更、转让和消灭，依照法律规定应当登记的，自记载于不动产登记簿时发生效力。

15. Effectiveness of Contract Involving Real Rights in Immovable; Consequence of Failure to Register

Where parties enter into a contract for creation, alteration, transfer or extinguishment of a real right in an immovable, the contract takes effect upon its formation, except otherwise provided by the relevant Law or the contract; failure to undertake the associated real right registration does not impair the validity of the contract.

当事人之间订立有关设立、变更、转让和消灭不动产物权的合同，除法律另有规定或者合同另有约定外，自合同成立时生效；未办理物权登记的，不影响合同效力。

16. Items Recorded in Register of Immovables; Administration of the Register

Items recorded in the register of immovables are the basis for attribution of the associated real rights and determination of their contents. The register of immovables shall be administered by the registrar.

不动产登记簿是物权归属和内容的根据。不动产登记簿由登记机构管理。

17. Certificate of rights in Immovable; Determination in Case of Discrepancy with Register

The certificate of rights in immovable is the proof establishing that the purported rights holder enjoys such real right in the subject immovable. Items recorded on the certificate of rights in immovable shall be consistent with those recorded in the register of immovables. In

case of discrepancy, unless evidence proves that the items recorded in the register of immovables are indeed erroneous, items recorded in the register of immovables prevail.

不动产权属证书是权利人享有该不动产物权的证明。不动产权属证书记载的事项，应当与不动产登记簿一致；记载不一致的，除有证据证明不动产登记簿确有错误外，以不动产登记簿为准。

18. Right to Inspect Register of Immovables

A rights holder or an interested person may apply to inspect and copy the registration materials, and the registrar shall make such materials available.

权利人、利害关系人可以申请查询、复制登记资料，登记机构应当提供。

19. Rectification Recordation; Objection Recordation

Where a rights holder or an interested person believes that an item is recorded erroneously in the register of immovables, he may apply for rectification recordation. The register shall rectify said item if the rights holder recorded on the register of immovables consents to such rectification in writing, or if evidence proves that it was indeed recorded erroneously.

Where the rights holder recorded on the register of immovables does not consent to such rectification, the interested person may apply for objection recordation. Where objection recordation is made by the registrar, the objection recordation shall lapse if the applicant fails to initiate a lawsuit within fifteen days of the date of objection recordation. Where the objection recordation is improper and causes injury to the rights holder, the rights holder may claim damages against the applicant for objection recordation.

权利人、利害关系人认为不动产登记簿记载的事项错误的，可以申请更正登记。不动产登记簿记载的权利人书面同意更正或者有证据证明登记确有错误的，登记机构应当予以更正。

不动产登记簿记载的权利人不同意更正的，利害关系人可以申请异议登记。登记机构予以异议登记的，申请人在异议登记之日起十五日内不起诉，异议登记失效。异议登记不当，造成权利人损害的，权利人可以向申请人请求损害赔偿。

20. Advance Notice Recordation

In connection with the conclusion of an agreement by the parties for the sale and purchase of a house or any other real right in an immovable, in order to ensure the future

realization of the relevant real rights therein, the parties may apply to the registrar for recordation of advance notice in accordance with their agreement. Upon recordation of advance notice, any disposal of the real rights associated with the subject immovable is not valid unless consent is given by the rights holder shown on the recordation of advance notice.

If after recordation of advance notice, the associated creditor's claim is extinguished or the relevant party fails to apply for registration within three months as from the time when he is capable of undertaking registration in respect of the subject immovable, the recordation of advance notice shall lapse.

当事人签订买卖房屋或者其他不动产物权的协议，为保障将来实现物权，按照约定可以向登记机构申请预告登记。预告登记后，未经预告登记的权利人同意，处分该不动产的，不发生物权效力。

预告登记后，债权消灭或者自能够进行不动产登记之日起三个月内未申请登记的，预告登记失效。

21. False Registration; Erroneous Registration

Where a party applied for registration by submitting false materials, thereby causing harm to another person, he is liable for damages.

Where an item was recorded erroneously in the register of immovables, thereby causing harm to another person, the registrar is liable for damages. After payment of damages, the registrar may seek recourse against the person responsible for causing such registration error.

当事人提供虚假材料申请登记，给他人造成损害的，应当承担赔偿责任。

因登记错误，给他人造成损害的，登记机构应当承担赔偿责任。登记机构赔偿后，可以向造成登记错误的人追偿。

22. Immovable Registration Fee

Immovable registration fee shall be charged on a per unit basis, and may not be charged as a percentage of the area, volume or price of the subject immovable. The specific fee standards shall be prescribed by the relevant department under the State Council in consultation with the price regulatory authority.

不动产登记费按件收取，不得按照不动产的面积、体积或者价款的比例收取。具体收费标准由国务院有关部门会同价格主管部门规定。

Section Two Delivery of Movables

第二节 动产交付

23. Vesting of Real Rights in Movable

Creation or transfer of a real right in a movable takes effect upon delivery, except otherwise provided by the relevant Law.

动产物权的设立和转让，自交付时发生法律效力，但法律另有规定的除外。

24. Perfection of Real Rights in Certain Movable

The creation, alteration, transfer or extinguishment of a real right in a vessel, aircraft, or motor vehicle, etc. cannot be set up against a third person in good faith unless registration is effected.

船舶、航空器和机动车等物权的设立、变更、转让和消灭，未经登记，不得对抗善意第三人。

25. Vesting of Real Rights in Movable Already in Transferee's Possession

Where the rights holder has possession of a movable under the law prior to the creation or transfer of a real right therein, said real right is vested at the time of effectiveness of the associated legal act.

动产物权设立和转让前，权利人已经依法占有该动产的，物权自法律行为生效时发生法律效力。

26. Vesting of Real Rights in Movable Possessed by Third Person

Where a third person has possession of a movable under the law prior to the creation or transfer of a real right therein, the person obliged to deliver it may assign the claim for restitution against the third person in lieu of delivery of the subject movable.

动产物权设立和转让前，第三人依法占有该动产的，负有交付义务的人可以通过转让请求第三人返还原物的权利代替交付。

27. Vesting of Real Rights in Movable without Transfer of Possession

For transfer of a real right in a movable, if the parties also stipulate that the transferor shall retain possession of the subject movable, said real right is vested at the time such stipulation takes effect.

动产物权转让时，双方又约定由出让人继续占有该动产的，物权自该约定生效时发生效力。

Section Three Other Provisions on Ownership

第三节 其他规定

28. Vesting of Real Rights Appropriated by Way of Judicial Instrument or Expropriation Decision

For creation, alteration, transfer, or extinguishment of a real right resulting from a judicial instrument issued by a People's Court or an arbitration commission, or an expropriation decision issued by the relevant People's Government, etc., the real right is vested at the time of effectiveness of said judicial instrument or expropriation decision of the relevant People's Government, etc.

因人民法院、仲裁委员会的法律文书或者人民政府的征收决定等，导致物权设立、变更、转让或者消灭的，自法律文书或者人民政府的征收决定等生效时发生效力。

29. Vesting of Real Rights Appropriated by Way of Inheritance or Gifting

For appropriation of a real right by way of inheritance or testamentary gifting, the real right is vested at the time of commencement of inheritance or testamentary gifting.

因继承或者受遗赠取得物权的，自继承或者受遗赠开始时发生效力。

30. Vesting of Real Rights Appropriated by Way of Factual Act

For creation or extinguishment of a real right by way of a factual act such as lawful construction or demolition of a house, such real right shall be vested or extinguished at the time of consummation of said factual act.

因合法建造、拆除房屋等事实行为设立或者消灭物权的，自事实行为成就时发生效力。

31. Disposal of Specially Appropriated Real Rights Subject to Registration if Required

For a real right in an immovable appropriated under articles 28-30 hereof, if the disposal thereof is subject to registration under the law, any unregistered disposal is not valid as regards the associated real right.

依照本法第二十八条至第三十条规定享有不动产物权的，处分该物权时，依照法律规定需要办理登记的，未经登记，不生物权效力。

Chapter Three Real Rights Remedies

第三章 物权的保护

32. Modes of Exercise of Real Rights Remedies

Where a real right is infringed upon, the rights holder may remedy the infringement by way of settlement, conciliation, arbitration or lawsuit, etc.

物权受到侵害的，权利人可以通过和解、调解、仲裁、诉讼等途径解决。

33. Acknowledgement of Real Rights

Where the attribution of a real right or the content thereof is in dispute, an interested person may require acknowledgment of his real right.

因物权的归属、内容发生争议的，利害关系人可以请求确认权利。

34. Restitution

Where a person possesses the immovable or movable of a rights holder without authority, the rights holder may require him to make restitution.

无权占有不动产或者动产的，权利人可以请求返还原物。

35. Removal of Impairment; Elimination of Danger

Where a person has impaired or may impair a real right, the right holder may require him to remove the impairment or eliminate the danger.

妨害物权或者可能妨害物权的，权利人可以请求排除妨害或者消除危险。

36. Repair, Remake, Replacement or restoration

Where a person causes damage to, or loss of, an immovable or movable, the rights holder may require him to repair, remake, replace or restore the damaged or lost immovable or movable.

造成不动产或者动产毁损的，权利人可以请求修理、重作、更换或者恢复原状。

37. Damages

Where a person infringes on a real right, thereby causing harm to the right holder, the right holder may require him to pay damages, and may also require him to bear other civil liabilities.

侵害物权，造成权利人损害的，权利人可以请求损害赔偿，也可以请求承担其他民事责任。

38. Real Rights Remedies Cumulative

The real rights remedies prescribed in this Chapter may be exercised singularly, and may also be exercised cumulatively in light of the circumstances of infringement.

For infringement of real rights, in addition to civil liability, where an administrative offense is committed, the infringer shall be administratively liable under the law; and where a crime is committed, the infringer shall be criminally liable under the law.

本章规定的物权保护方式，可以单独适用，也可以根据权利被侵害的情形合并适用。

侵害物权，除承担民事责任外，违反行政管理规定的，依法承担行政责任；构成犯罪的，依法追究刑事责任。