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VIETNAM INTERNATIONAL LAW FIRM

# Land Law 2024 permits non-banking entities to take mortgages over land assets

Real estate financing is a crucial aspect of the real estate sector, as it provides the necessary capital for development and investment. However, in Vietnam, real estate financing has traditionally been limited by the legal framework governing land use rights and security interests. The Land Law 2024, which will take effect on 1 August 2024, may change this by introducing a new regulation that allows non-bank entities to take security over land use rights. This article will explore how this regulation could impact the real estate financing market and the opportunities and challenges it could bring for both lenders and borrowers.

## The Land Law 2024 and the New Regulation

The Land Law 2024 is a comprehensive law that regulates the management, use, and allocation of land in Vietnam. It replaces the current law and introduces several significant amendments that aim to improve land use efficiency, streamline procedures, increase transparency, and protect land users' rights and interests. One of the most notable changes is the provision that allows non-bank entities to take security over land use rights and assets attached to land. Previously, only banks were allowed to do so, limiting the scope and diversity of financing sources for real estate projects. The new regulation expands the pool of potential lenders to include domestic companies and individuals. This means that more entities can now take land use right as collateral for loans, thereby increasing the liquidity and flexibility of land assets.

## The Potential Impacts of the New Regulation

The new regulation could have far-reaching impacts on the real estate financing market in Vietnam. Some of the potential impacts are:

- **Expanded Pool of Lenders:** With more entities able to provide loans secured by land use rights, real estate developers and investors could have access to a broader range of financing sources, including non-bank financial institutions, investment fund and private lenders. This could create more competition and innovation in the lending market, offering more options and opportunities for borrowers.
- **Increased Access to Capital:** By allowing non-bank entities to take security over land use rights, more capital could be available for real estate development and investment. This could lead to an increase in real estate projects and transactions, stimulating growth and development in the real estate sector.
- **Competitive Loan Terms:** With more lenders in the market, there could be more competition, potentially leading to more favorable loan terms for borrowers. This could include lower interest rates, longer loan terms, and more flexible repayment schedules. This could reduce the cost of borrowing and increase the profitability of real estate projects.
- **Risk Diversification:** For lenders, being able to take security over land use rights provides a tangible asset that can be used to manage risk. This could make lending to real estate projects more attractive and feasible for non-bank entities, as they would have a recourse in case of default. For borrowers, diversifying their sources of financing could also reduce their reliance on banks and mitigate the risk of changes in bank lending policies or interest rates.
- **Market Growth:** Overall, these changes could stimulate growth in the real estate market. With more financing options and increased access to capital, there could be more real estate development and investment, leading to a more dynamic and robust real estate market.

## The Potential Risks and Challenges of the New Regulation

While the new regulation could bring about positive changes, it also comes with potential risks and challenges. Some of the potential risks and challenges are:

- **Regulatory Uncertainty:** The new regulation is still subject to further guidance and clarification from the authorities. There could be ambiguity and inconsistency in the interpretation and implementation of the regulation, creating uncertainty and confusion for both lenders and borrowers. Therefore, it is important for the parties involved to seek professional advice and conduct due diligence before engaging in any transactions involving land use rights.
- **Operational Complexity:** The new regulation could also increase the operational complexity and cost of real estate financing transactions. For instance, there could be more requirements and procedures for the registration, transfer, and enforcement of security interests over land use rights. There could also be more risks and challenges in verifying the validity, legality, and value of land use rights and assets attached to land. Furthermore, there could be more disputes and litigation arising from the enforcement of security interests, especially in cases involving multiple creditors or third parties. Therefore, it is essential for the parties involved to have clear and comprehensive contracts, documentation, and dispute resolution mechanisms.
- **Market Volatility:** The new regulation could also affect the market volatility and stability of the real estate sector. For instance, there could be a surge or a slump in the demand and supply of land and real estate properties, depending on the availability and attractiveness of financing options. There could also be fluctuations in the prices and values of land and real estate properties, depending on the market conditions and sentiments. Therefore, it is crucial for the parties involved to monitor the market trends and risks and adopt prudent and flexible strategies.

## Conclusion

The new regulation in the Land Law 2024 that allows non-bank entities to take security over land use rights is a significant change that could have a profound impact on the real estate financing market in Vietnam. It could create more opportunities and benefits for both lenders and borrowers, as well as stimulate growth and development in the real estate sector. However, it also comes with potential risks and challenges, such as regulatory uncertainty, operational complexity, and market volatility. Therefore, it is important for the parties involved to carefully consider their strategies and seek professional advice when engaging in real estate financing transactions involving land use rights.

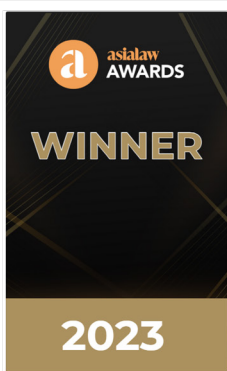
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FOR MORE INFORMATION PLEASE CONTACT:



Tung Ngo  
Managing Partner  
Ho Chi Minh City  
tung@vilaf.com.vn

Ngan Nguyen  
Counsel  
Ho Chi Minh City  
ngan.nguyen@vilaf.com.vn