

【Statute Title】 Measures for Land Registration [Effective]

【法规标题】土地登记办法 [现行有效]

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Order of the Ministry of Land and Resources

(No. 40)

The Measures for Land Registration, which were deliberated and adopted at the fifth executive meeting of the Ministry of Land and Resources on November 28, 2007, are hereby promulgated and shall come into force from February 1, 2008.

Minister: Xu Shaoshi

December 30, 2007

Measures for Land Registration

国土资源部令

(第 40 号)

(相关资料: 部门规章 2 篇 地方法规 53 篇 裁判文书 10 篇 相关论文 6 篇)

《土地登记办法》，已经 2007 年 11 月 28 日国土资源部第 5 次部务会议审议通过，现予公布，自 2008 年 2 月 1 日起施行。

部 长 徐绍史

二〇〇七年十二月三十日

土地登记办法

Chapter I General Provisions

第一章 总则

Article 1 The present Measures are formulated according to the Real Right Law of the People's Republic of China, the Land Administration Law of the People's Republic of China, the Law of the

People's Republic of China on Urban Real Estate Administration and the Implementation Regulation on the Land Administration Law of the People's Republic of China for the purpose of regulating the land registration and protecting the legitimate rights and interests of land obligees.

第一条 为规范土地登记行为, 保护土地权利人的合法权益, 根据《中华人民共和国物权法》、《中华人民共和国土地管理法》、《中华人民共和国城市房地产管理法》和《中华人民共和国土地管理法实施条例》, 制定本办法。

Article 2 The term "land registration" as mentioned in the present Measures refers to the act of registering state-owned land use rights, collective land ownership, collective land use rights, land mortgage right, easement and other land rights that need to be registered according to any laws and regulations on the land registers for the purpose of announcement.

The term "state-owned land use rights" as mentioned in the preceding paragraph includes state-owned construction land use right and state-owned agricultural land use right; the term "collective land use rights" includes collective construction land use right, right to use the house site and collective agricultural land use right (excluding the right to contracted management of land).

第二条 本办法所称土地登记, 是指将国有土地使用权、集体土地所有权、集体土地使用权和土地抵押权、地役权以及依照法律法规规定需要登记的其他土地权利记载于土地登记簿公示的行为。

前款规定的国有土地使用权, 包括国有建设用地使用权和国有农用地使用权; 集体土地使用权, 包括集体建设用地使用权、宅基地使用权和集体农用地使用权 (不含土地承包经营权)。

Article 3 The land registration shall comply with the principle of territorial registration.

An applicant shall, according to the present Measures, file an application for land registration with the administrative department of land and resources under the people's government at or above the county level, which shall report the application to the people's government at or above the county level for registration and issuance of a land right certificate. However, both the land mortgage right and the easement shall be registered and their land right certificates shall be issued by the administrative department of land and resources under the people's government at or above the county level.

For the land used in two or more administrative divisions at the county level, an application shall be respectively filed with the relevant people's governments at or above the county level for land registration.

The land used by central state organs in Beijing shall be governed by the Measures for the Registration of Land Used by Central State Organs in Beijing.

第三条 土地登记实行属地登记原则。

申请人应当依照本办法向土地所在地的县级以上人民政府国土资源行政主管部门提出土地登记申请, 依法报县级以上人民政府登记造册, 核发土地权利证书。但土地抵押权、地役权由县级以上人民政府国土资源行政主管部门登记, 核发土地他项权利证明书。

跨县级行政区域使用的土地, 应当报土地所跨区域各县级以上人民政府分别办理土地登记。

在京中央国家机关使用的土地，按照《在京中央国家机关用地土地登记办法》的规定执行。

（相关资料：地方法规 4 篇 裁判文书 2 篇）

Article 4 The state implements the post-holding certificate system of land registration staff. The functionaries engaging in land ownership examination and registration examination shall obtain post-holding certificates of land registration as issued by the administrative department of land and resources under the State Council.

第四条 国家实行土地登记人员持证上岗制度。从事土地权属审核和登记审查的工作人员，应当取得国务院国土资源行政主管部门颁发的土地登记上岗证书。

Chapter II General Provisions

第二章 一般规定

Article 5 The land shall be registered by the unit of land parcel.
The term “land parcel” refers to the block or space closed by land ownership boundaries.

第五条 土地以宗地为单位进行登记。
宗地是指土地权属界线封闭的地块或者空间。

Article 6 Land registration shall be made upon application, unless it is otherwise provided for by any laws, regulations or the present Measures.

第六条 土地登记应当依照申请进行，但法律、法规和本办法另有规定的除外。

Article 7 Land registration shall be jointly applied for by the parties concerned, but can be applied for by one party if it is under any of the following circumstances:

1. General land registration;
2. Initial registration of state-owned land use rights, collective land ownership or collective land use rights;
3. Registration of land rights obtained from inheritance or legacy;
4. Registration of land rights resulted from a lawfully effective decision on disposal of a land ownership dispute as made by the people's government;
5. Registration of land rights resulted from an effective legal document as made by the people's court or the arbitration agency;
6. Rectification registration or objection registration;
7. Name, address or uses alteration registration;
8. Issuance afterwards or re-issuance of a land right certificate; or
9. Any other circumstances under which an application may be filed by one party according to legal provisions.

第七条 土地登记应当由当事人共同申请，但有下列情形之一的，可以单方申请：
（一）土地总登记；

- (二) 国有土地使用权、集体土地所有权、集体土地使用权的初始登记;
- (三) 因继承或者遗赠取得土地权利的登记;
- (四) 因人民政府已经发生法律效力的土地权属争议处理决定而取得土地权利的登记;
- (五) 因人民法院、仲裁机构已经发生法律效力的法律文书而取得土地权利的登记;
- (六) 更正登记或者异议登记;
- (七) 名称、地址或者用途变更登记;
- (八) 土地权利证书的补发或者换发;
- (九) 其他依照规定可以由当事人单方申请的情形。

Article 8 Where there are two or more land users on one parcel of land, the land registration may be applied for separately.

第八条 两个以上土地使用权人共同使用一宗土地的，可以分别申请土地登记。

Article 9 If an applicant applies for land registration, he shall submit the following documents based on different registration items:

1. Application form for land registration;
2. Identity certification of the applicant;
3. Certification on the source of land ownership;
4. Cadastral inventory, parcel map and boundary coordinates of the land parcel;
5. Ownership certificate of ground attachments;
6. Tax payment certificate or tax reduction and exemption certificate prescribed by any laws and regulations; and
7. Other certification documents prescribed by the present Measures.

The cadastral inventory, parcel map and boundary coordinates of the land parcel prescribed in Item (4) of the preceding paragraph may be obtained through cadastral survey by an authorized qualified professional technical institution.

To apply for land registration, an applicant shall faithfully submit relevant documents and reflect the true situation to the administrative department of land and resources, and be responsible for the authenticity of essential contents in the application documents.

第九条 申请人申请土地登记，应当根据不同的登记事项提交下列材料：

- (一) 土地登记申请书;
- (二) 申请人身份证明材料;
- (三) 土地权属来源证明;
- (四) 地籍调查表、宗地图及宗地界址坐标;
- (五) 地上附着物权属证明;
- (六) 法律法规规定的完税或者减免税凭证;
- (七) 本办法规定的其他证明材料。

前款第(四)项规定的地籍调查表、宗地图及宗地界址坐标，可以委托有资质的专业技术单位进行地籍调查获得。

申请人申请土地登记，应当如实向国土资源行政主管部门提交有关材料和反映真实情况，并对申请材料实质内容的真实性负责。

(相关资料: 裁判文书 1 篇)

Article 10 The land rights of a minor shall be registered upon application of his guardian. For the application for registering the land of a minor, in addition to the documents prescribed in Article 9 of the present Measures, the identity certification of the guardian shall also be submitted.

第十条 未成年人的土地权利，应当由其监护人代为申请登记。申请办理未成年人土地登记的，除提交本办法第九条规定的材料外，还应当提交监护人身份证明材料。

Article 11 If the land registration is applied for by an agent, in addition to the documents prescribed in Article 9 of the present Measures, the power of attorney and the identity certification of the agent shall also be submitted.

If an agent applies for land registration for an overseas applicant, the power of attorney and the identity certification of the agent shall be notarized or authenticated.

第十一条 委托代理人申请土地登记的，除提交本办法第九条规定的材料外，还应当提交授权委托书和代理人身份证明。

代理境外申请人申请土地登记的，授权委托书和被代理人身份证明应当经依法公证或者认证。

Article 12 For a land registration application filed by the parties concerned, the administrative department of land and resources shall deal with it respectively based on the following circumstances:

1. If the land for which a registration application is filed is not located within the jurisdiction, the administrative department of land and resources shall make a decision of rejection on the spot, and notify the applicant to file an application with the competent administrative department of land and resources;
2. If there are any errors in application documents, which can be corrected on the spot, the administrative department of land and resources shall permit the applicant to make correction on the spot;
3. If the application documents are incomplete or inconsistent with statutory forms, the administrative department of land and resources shall, on the spot or within five days, notify, in a one-off way, the applicant of all the items that need to be supplemented and corrected; and
4. If the application documents are complete or consistent with statutory forms, or the applicant has supplemented all the application documents as supplemented and corrected, the administrative department of land and resources shall accept the land registration application.

第十二条 对当事人提出的土地登记申请，国土资源行政主管部门应当根据下列情况分别作出处理：

（一）申请登记的土地不在本登记辖区的，应当当场作出不予受理的决定，并告知申请人向有管辖权的国土资源行政主管部门申请；

（二）申请材料存在可以当场更正的错误的，应当允许申请人当场更正；

（三）申请材料不齐全或者不符合法定形式的，应当当场或者在五日内一次告知申请人需要补正的全部内容；

（四）申请材料齐全、符合法定形式，或者申请人按照要求提交全部补正申请材料的，

应当受理土地登记申请。

Article 13 If, after acceptance of a land registration application, the administrative department of land and resources considers necessary, it may inquire of the applicant about the relevant registration items or may make onsite inspection of the land for registration application.

第十三条 国土资源行政主管部门受理土地登记申请后，认为必要的，可以就有关登记事项向申请人询问，也可以对申请登记的土地进行实地查看。

Article 14 The administrative department of land and resources shall examine a land registration application as accepted, and handle the registration formality according to the following provisions:

1. Filling in the land register by the unit of land parcel according to the examination results about the land registration application;
2. Filling in the household registration card by the unit of obligee according to the relevant contents on the land register; and
3. Filling in the land right certificate by the unit of land parcel according to the relevant contents on the land register. For a commonly owned land parcel, the land right certificates shall be separately filled in for the two or more land obligees.

Before the administrative department of land and resources handles the formality for registration of land ownership or land use rights, it shall give a report to the people's government at the same level for approval.

第十四条 国土资源行政主管部门应当对受理的土地登记申请进行审查，并按照下列规定办理登记手续：

- （一）根据对土地登记申请的审核结果，以宗地为单位填写土地登记簿；
- （二）根据土地登记簿的相关内容，以权利人为单位填写土地归户卡；
- （三）根据土地登记簿的相关内容，以宗地为单位填写土地权利证书。对共有一宗土地的，应当为两个以上土地权利人分别填写土地权利证书。

国土资源行政主管部门在办理土地所有权和土地使用权登记手续前，应当报经同级人民政府批准。

Article 15 A land register is the foundation of land ownership and items of rights; and shall write down:

1. Name/title and address of the land obligee;
2. Nature of land ownership, type of use rights, starting time and duration of use, rights and changes in the items of rights;
3. Location, boundary, acreage, parcel number, uses and transaction price of the land; and
4. Conditions about ground attachments.

The land register shall bear the seal of the people's government.

If the land register is in electronic media, it shall be backed up at a different place every day.

第十五条 土地登记簿是土地权利归属和内容的根据。土地登记簿应当载明下列内容：

- (一) 土地权利人的姓名或者名称、地址;
- (二) 土地的权属性质、使用权类型、取得时间和使用期限、权利以及内容变化情况;
- (三) 土地的坐落、界址、面积、宗地号、用途和取得价格;
- (四) 地上附着物情况。

土地登记簿应当加盖人民政府印章。

土地登记簿采用电子介质的，应当每天进行异地备份。

Article 16 A land right certificate is the proof of land rights enjoyed by the land obligee.

Items written down on a land right certificate shall be identical with those on the land register; otherwise, the land register shall prevail unless there is proof proving that there are any errors on the land register.

第十六条 土地权利证书是土地权利人享有土地权利的证明。

土地权利证书记载的事项，应当与土地登记簿一致；记载不一致的，除有证据证明土地登记簿确有错误外，以土地登记簿为准。

Article 17 Land right certificates include:

1. State-owned land use certificate;
2. Collective land ownership certificate;
3. Collective land use certificate; and
4. Certificate of the other rights of land.

The state-owned construction land use right and the state-owned agricultural land use right shall be stated on the state-owned land use certificate; the collective construction land use right, the right to the use of house site and the collective agricultural land use right shall be stated on the collective land use certificate; and the land mortgage right and the easement shall be stated on the certificate of the other rights of land.

Land right certificates shall be made under the uniform supervision of the administrative department of land and resources under the State Council.

第十七条 土地权利证书包括：

- (一) 国有土地使用证；
- (二) 集体土地所有证；
- (三) 集体土地使用证；
- (四) 土地他项权利证明书。

国有建设用地使用权和国有农用地使用权在国有土地使用证上载明；集体建设用地使用权、宅基地使用权和集体农用地使用权在集体土地使用证上载明；土地抵押权和地役权可以在土地他项权利证明书上载明。

土地权利证书由国务院国土资源行政主管部门统一监制。

Article 18 Under any of the following circumstances, the registration shall not be allowed:

1. There are any disputes over land ownership;
2. The illegal use of land has not been disposed of or is being disposed of;
3. The fee for paid use of land or any other taxes and charges have not been paid in full amount;

4. The land right involved in registration application has expired;

5. Any other circumstances.

If the registration is not allowed, the reason for rejection shall be notified to the applicant in written form.

第十八条 有下列情形之一的，不予登记：

（一）土地权属有争议的；

（二）土地违法违规行为尚未处理或者正在处理的；

（三）未依法足额缴纳土地有偿使用费和其他税费的；

（四）申请登记的土地权利超过规定期限的；

（五）其他依法不予登记的。

不予登记的，应当书面告知申请人不予登记的理由。

（相关资料：裁判文书 4 篇）

Article 19 The administrative department of land and resources shall, within 20 days after acceptance of a land registration application, handle the formality for examination of land registration. The said term may be extended by ten days upon approval of the person-in-charge of the administrative department of land and resources.

第十九条 国土资源行政主管部门应当自受理土地登记申请之日起二十日内，办结土地登记审查手续。特殊情况需要延期的，经国土资源行政主管部门负责人批准后，可以延长十日。

（相关资料：地方法规 1 篇）

Article 20 Documents formed through land registration shall be managed by the administrative department of land and resources.

The formats of the application form for land registration, the approval form for land registration, the household registration card and the land register shall be determined by the administrative department of land and resources under the State Council.

第二十条 土地登记形成的文件资料，由国土资源行政主管部门负责管理。

土地登记申请书、土地登记审批表、土地登记归户卡和土地登记簿的式样，由国务院国土资源行政主管部门规定。

Chapter III General Land Registration

第三章 土地总登记

Article 21 The “general land registration” as mentioned in the present Measures refers to the overall registration of all the land within the jurisdiction or the land within the specific region in a certain period of time.

第二十一条 本办法所称土地总登记，是指在一定时间内对辖区内全部土地或者特定区域内土地进行的全面登记。

Article 22 An announcement shall be circulated for general land registration; and mainly include:

1. Division of land registration zones;
2. Term of land registration;
3. Place for receipt of land registration documents;
4. Relevant documents that shall be submitted by an applicant for land registration; and
5. Other matters that need to be announced.

第二十二条 土地总登记应当发布通告。通告的主要内容包括：

- (一) 土地登记区的划分；
- (二) 土地登记的期限；
- (三) 土地登记收件地点；
- (四) 土地登记申请人应当提交的相关文件材料；
- (五) 需要通告的其他事项。

Article 23 For a land parcel consistent with the requirements for general registration, the administrative department of land and resources shall make an announcement, which shall mainly include:

1. Name/title and address of the land obligee;
2. Location, acreage, use, nature of ownership, type of use right and duration of use of the land to be registered upon approval;
3. Term and means for the land obligee and other interested parties to present objections, and the organ for acceptance of such objections; and
4. Other matters that need to be announced.

第二十三条 对符合总登记要求的宗地，由国土资源行政主管部门予以公告。公告的主要内容包括：

- (一) 土地权利人的姓名或者名称、地址；
- (二) 准予登记的土地坐落、面积、用途、权属性质、使用权类型和使用期限；
- (三) 土地权利人及其他利害关系人提出异议的期限、方式和受理机构；
- (四) 需要公告的其他事项。

Article 24 At expiration of the announcement term, if the parties concerned have no objection to the examination results of general land registration or such objections can not be established, the administrative department of land and resources shall make registration after giving a report to the people's government for approval.

第二十四条 公告期满，当事人对土地总登记审核结果无异议或者异议不成立的，由国土资源行政主管部门报经人民政府批准后办理登记。

Chapter IV Initial Registration

第四章 初始登记

Article 25 The term "initial registration" as mentioned in the present Measures refers to the registration of land rights created other than the general land registration.

第二十五条 本办法所称初始登记，是指土地总登记之外对设立的土地权利进行的登记。

Article 26 For the state-owned construction land use right obtained by way of allotment, the parties concerned shall apply for initial registration of the state-owned construction land use right upon the strength of the approval document on land use, the written decision on allotment of state-owned land as made by the people's government at or above the county level as well as other relevant certification material.

If the state-owned land is allotted and used by a newly started large or medium-sized construction project, the report on completion-based check and acceptance of construction project shall also be submitted.

第二十六条 依法以划拨方式取得国有建设用地使用权的，当事人应当持县级以上人民政府的批准用地文件和国有土地划拨决定书等相关证明材料，申请划拨国有建设用地使用权初始登记。

新开工的大中型建设项目使用划拨国有土地的，还应当提供建设项目竣工验收报告。

Article 27 For the state-owned construction land use right obtained by way of transfer, the parties concerned shall, after having paid off all the transfer money for state-owned land, apply for initial registration of the state-owned construction land use right upon the strength of the contract on transfer of state-owned construction land use right, the voucher on payment of land transfer money and other relevant certification material.

第二十七条 依法以出让方式取得国有建设用地使用权的，当事人应当在付清全部国有土地出让价款后，持国有建设用地使用权出让合同和土地出让价款缴纳凭证等相关证明材料，申请出让国有建设用地使用权初始登记。

（相关资料：裁判文书 1 篇）

Article 28 If the allotment of state-owned construction land use right has been turned into the transfer of state-owned construction land use right, the parties concerned shall apply for initial registration of the state-owned construction land use right upon the strength of the original state-owned land use certificate, the transfer contract, the voucher on payment of land transfer money and other relevant certification material.

第二十八条 划拨国有建设用地使用权已依法转为出让国有建设用地使用权的，当事人应当持原国有土地使用证、出让合同及土地出让价款缴纳凭证等相关证明材料，申请出让国有建设用地使用权初始登记。

Article 29 If the state-owned construction land use right is obtained by way of the lease of state-owned land, the parties concerned shall apply for initial registration of the state-owned construction land use right upon the strength of the lease contract, the proof on payment of rents and other relevant certification material.

第二十九条 依法以国有土地租赁方式取得国有建设用地使用权的，当事人应当持

租赁合同和土地租金缴纳凭证等相关证明材料，申请租赁国有建设用地使用权初始登记。

Article 30 If the state-owned construction land use right is obtained by way of capital contribution or share subscription by state-owned land use right, the parties concerned shall apply for initial registration of the state-owned construction land use right upon the strength of the original state-owned land use certificate, the document on approval of capital contribution or share subscription by state-owned land use right and other relevant certification material.

第三十条 依法以国有土地使用权作价出资或者入股方式取得国有建设用地使用权的，当事人应当持原国有土地使用证、土地使用权出资或者入股批准文件和其他相关证明材料，申请作价出资或者入股国有建设用地使用权初始登记。

Article 31 If the state-owned construction land use right is obtained by way of state-authorized operations, the parties concerned shall apply for initial registration of the state-owned construction land use right upon the strength of the original state-owned land use certificate, the document on approval of land disposal and other relevant certification material.

第三十一条 以国家授权经营方式取得国有建设用地使用权的，当事人应当持原国有土地使用证、土地资产处置批准文件和其他相关证明材料，申请授权经营国有建设用地使用权初始登记。

Article 32 The obligee of collective land owned by peasants shall apply for initial registration of the collective land ownership upon the strength of the certification on collective land ownership.

第三十二条 农民集体土地所有权人应当持集体土地所有权证明材料，申请集体土地所有权初始登记。

Article 33 If the collective land is used for construction, the parties concerned shall apply for initial registration of the collective construction land use right upon the strength of the approval document on land use as issued by the people's government that has the power of approval.

第三十三条 依法使用本集体土地进行建设的，当事人应当持有批准权的人民政府的批准用地文件，申请集体建设用地使用权初始登记。

Article 34 If collective land owners start up an enterprise in the form of share subscription or joint venture by collective construction land use right, the parties concerned shall apply for initial registration of the collective construction land use right upon the strength of the approval document issued by the people's government that has the power of approval as well as the relevant contract.

第三十四条 集体土地所有权人依法以集体建设用地使用权入股、联营等形式兴办企业的，当事人应当持有批准权的人民政府的批准文件和相关合同，申请集体建设用地使用权初始登记。

Article 35 If the collective land is used for agricultural production, the parties concerned shall apply for initial registration of the collective agricultural land use right upon the strength of the contract on use of agricultural land.

第三十五条 依法使用本集体土地进行农业生产的，当事人应当持农用地使用合同，申请集体农用地使用权初始登记。

Article 36 For the mortgage of land use right, the mortgagee and the mortgagor shall apply for mortgage registration of the land use right upon the strength of the land right certificate, the contract on principal creditor's rights and debts, the mortgage contract and other relevant certification material.

If the mortgage has been created for several times on one land parcel, the mortgage registration shall be made according to the order of applications for mortgage registration.

If the mortgage registration meets the requirements, the administrative department of land and resources shall record down relevant items stipulated in the mortgage contract on the land register and the land right certificate, and issue a certificate of the other rights of land to the mortgagee. For the maximum mortgage as applied for, the highest amount of credit as secured, the term of maximum mortgage and etc. shall be recorded down.

第三十六条 依法抵押土地使用权的，抵押权人和抵押人应当持土地权利证书、主债权债务合同、抵押合同以及相关证明材料，申请土地使用权抵押登记。

同一宗地多次抵押的，以抵押登记申请先后为序办理抵押登记。

符合抵押登记条件的，国土资源行政主管部门应当将抵押合同约定的有关事项在土地登记簿和土地权利证书上加以记载，并向抵押权人颁发土地他项权利证明书。申请登记的抵押为最高额抵押的，应当记载所担保的最高债权额、最高额抵押的期间等内容。

Article 37 If the parties concerned apply for easement registration after the easement is created on the land, the obligee of servient tenement and the obligee of dominant tenement shall submit the land right certificate, the easement contract and other relevant certification material to the administrative department of land and resources.

If the easement registration meets the requirements, the administrative department of land and resources shall record down relevant items stipulated in the easement contract on the land registers and the land right certificates for servient tenement and dominant tenement, and keep the easement contract in the land parcel archives of servient tenement and dominant tenement.

If the servient tenement and the dominant tenement are under separate jurisdiction of the different administrative departments of land and resources, the parties concerned may apply for the easement registration to the administrative department of land and resources in charge of the registration of servient tenement. After the administrative department of land and resources in charge of the registration of servient tenement has completed registration, it shall notify the administrative department of land and resources in charge of the registration of dominant tenement, which shall record down the easement on the land register of dominant tenement.

第三十七条 在土地上设定地役权后，当事人申请地役权登记的，供役地权利人和需役地权利人应当向国土资源行政主管部门提交土地权利证书和地役权合同等相关证明材

料。

符合地役权登记条件的,国土资源行政主管部门应当将地役权合同约定的有关事项分别记载于供役地和需役地的土地登记簿和土地权利证书,并将地役权合同保存于供役地和需役地的宗地档案中。

供役地、需役地分属不同国土资源行政主管部门管辖的,当事人可以向负责供役地登记的国土资源行政主管部门申请地役权登记。负责供役地登记的国土资源行政主管部门完成登记后,应当通知负责需役地登记的国土资源行政主管部门,由其记载于需役地的土地登记簿。

(相关资料: 地方法规 1 篇 相关论文 1 篇)

Chapter V Alteration Registration

第五章 变更登记

Article 38 The term “alteration registration” as mentioned in the present Measures refers to the registration made due to any changes in the land obligee, the name/title and address of the land obligee or the uses of the land.

第三十八条 本办法所称变更登记,是指因土地权利人发生改变,或者因土地权利人姓名或者名称、地址和土地用途等内容发生变更而进行的登记。

Article 39 If the state-owned construction land use right as obtained by way of allotment, lease of state-owned land, capital contribution or share subscription is transferred, the parties concerned shall apply for alteration registration of the state-owned construction land use right upon the strength of the original state-owned land use certificate and any other certification material about transfer of land rights.

第三十九条 依法以出让、国有土地租赁、作价出资或者入股方式取得的国有建设用地使用权转让的,当事人应当持原国有土地使用证和土地权利发生转移的相关证明材料,申请国有建设用地使用权变更登记。

Article 40 If the construction land use right is transferred due to the purchase, sale, exchange or donation of ground buildings, structures and ancillary facilities, the parties concerned shall apply for alteration registration of the construction land use right upon the strength of the original land right certificate, the housing ownership certificate as altered and relevant certification material about transfer of land use rights. For the transfer of the right to the use of allotted land, the parties concerned shall also provide the approval document issued by the people's government that has the power of approval.

第四十条 因依法买卖、交换、赠与地上建筑物、构筑物及其附属设施涉及建设用地使用权转移的,当事人应当持原土地权利证书、变更后的房屋所有权证书及土地使用权发生转移的相关证明材料,申请建设用地使用权变更登记。涉及划拨土地使用权转移的,当事人还应当提供有批准权人民政府的批准文件。

(相关资料: 相关论文 1 篇)

Article 41 If the land use right is transferred due to the amalgamation, split-up, merger or bankruptcy of a legal person or any other organization, the parties concerned shall apply for alteration registration of the land use right upon the strength of the relevant agreement, the approval document issued by the relevant department, the original land right certificate and other relevant certification material.

第四十一条 因法人或者其他组织合并、分立、兼并、破产等原因致使土地使用权发生转移的，当事人应当持相关协议及有关部门的批准文件、原土地权利证书等相关证明材料，申请土地使用权变更登记。

Article 42 If the land use right is obtained due to the disposal of mortgaged property, the parties concerned shall, after the disposal of mortgaged property, apply for alteration registration of the land use right upon the strength of relevant certification documents.

第四十二条 因处分抵押财产而取得土地使用权的，当事人应当在抵押财产处分后，持相关证明文件，申请土地使用权变更登记。

Article 43 If the land use right is transferred while the land use right is being mortgaged, the parties concerned shall apply for alteration registration of the land use right upon the strength of the written certification of the mortgagee on consent to the transfer, the transfer contract and other relevant certification material.

After the land use right as mortgaged is transferred, the parties concerned shall make alteration registration of the land mortgage right upon the strength of the land right certificate and the certificate of the other rights of land.

第四十三条 土地使用权抵押期间，土地使用权依法发生转让的，当事人应当持抵押权人同意转让的书面证明、转让合同及其他相关证明材料，申请土地使用权变更登记。

已经抵押的土地使用权转让后，当事人应当持土地权利证书和他项权利证明书，办理土地抵押权变更登记。

Article 44 If the land mortgage right as registered is transferred due to the transfer of principal creditor's rights, both the transferor and the transferee of principal creditor's rights may apply for alteration registration of the land mortgage right upon the strength of the original certificate of the other rights of land, the transfer agreement, the certificate on notification to the debtor and other relevant certification material.

第四十四条 经依法登记的土地抵押权因主债权被转让而转让的，主债权的转让人和受让人可以持原土地他项权利证明书、转让协议、已经通知债务人的证明等相关证明材料，申请土地抵押权变更登记。

Article 45 If the land use right is resulted from an effective legal document of the people's government or the arbitration agency or from the inheritance or legacy, the parties concerned shall, when applying for registration, apply for alteration registration of the land use right upon the strength of the effective legal document, the death certificate or the will and other relevant

certification material.

If the obligee transfers the land use right or creates the land mortgage right before registration, he shall first apply for registering the land right under his name, and then apply for alteration registration of the land right.

第四十五条 因人民法院、仲裁机构生效的法律文书或者因继承、受遗赠取得土地使用权，当事人申请登记的，应当持生效的法律文书或者死亡证明、遗嘱等相关证明材料，申请土地使用权变更登记。

权利人在办理登记之前先行转让该土地使用权或者设定土地抵押权的，应当依照本办法先将土地权利申请登记到其名下后，再申请办理土地权利变更登记。

Article 46 If the parties concerned apply for registration after the land use right on which the easement has been created is transferred, the obligee of servient tenement and the obligee of dominant tenement shall apply for alteration registration of the easement upon the strength of the easement contract as altered, the land right certificate and other relevant certification material.

第四十六条 已经设定地役权的土地使用权转移后，当事人申请登记的，供役地权利人和需役地权利人应当持变更后的地役权合同及土地权利证书等相关证明材料，申请办理地役权变更登记。

Article 47 If the name/title or address of the land obligee is changed, the parties concerned shall apply for alteration registration of the name/title or address upon the strength of the original land right certificate and other relevant certification material.

第四十七条 土地权利人姓名或名称、地址发生变化的，当事人应当持原土地权利证书等相关证明材料，申请姓名或者名称、地址变更登记。

Article 48 If the uses of the land are changed, the parties concerned shall apply for alteration registration of the uses of the land upon the strength of the relevant approval document and the original land right certificate.

If the land transfer money needs to be made up due to the change in the uses of land, the parties concerned shall also submit the voucher on payment of the additional land transfer money.

第四十八条 土地的用途发生变更的，当事人应当持有关批准文件和原土地权利证书，申请土地用途变更登记。

土地用途变更依法需要补交土地出让价款的，当事人还应当提交已补交土地出让价款的缴纳凭证。

Chapter VI Cancellation Registration

第六章 注销登记

Article 49 The term “cancellation registration” as mentioned in the present Measures refers to the registration made due to the elimination of land rights.

第四十九条 本办法所称注销登记，是指因土地权利的消灭等而进行的登记。

Article 50 Under any of the following circumstances, the cancellation registration may be made directly:

1. The state-owned land, which is lawfully taken back;
2. The collective land owned by peasants, which is lawfully expropriated; or
3. The parties concerned fail to handle the formality of cancellation registration when the original land right is eliminated due to an effective legal document issued by the people's court or the arbitration agency.

第五十条 有下列情形之一的，可直接办理注销登记：

- （一）依法收回的国有土地；
- （二）依法征收的农民集体土地；
- （三）因人民法院、仲裁机构的生效法律文书致使原土地权利消灭，当事人未办理注销登记的。

（相关资料：地方法规 9 篇 裁判文书 1 篇）

Article 51 If the land right is eliminated due to natural disaster, etc., the original land obligee shall apply for cancellation registration upon the strength of the original land right certificate and relevant certification material.

第五十一条 因自然灾害等原因造成土地权利消灭的，原土地权利人应当持原土地权利证书及相关证明材料，申请注销登记。

Article 52 If the holder of state-owned construction use right does not apply for extension when the term of non-residential state-owned construction land use right expires, or the application for extension is not approved, the parties concerned shall, within 15 days before expiration of the said term, apply for cancellation registration upon the strength of the original land right certificate.

第五十二条 非住宅国有建设用地使用权期限届满，国有建设用地使用权人未申请续期或者申请续期未获批准的，当事人应当在期限届满前十五日内，持原土地权利证书，申请注销登记。

Article 53 If the land mortgage right or the easement as registered expires, the parties concerned shall, within 15 days after expiration, apply for cancellation registration of the land mortgage right or the easement upon the strength of relevant certification document.

第五十三条 已经登记的土地抵押权、地役权终止的，当事人应当在该土地抵押权、地役权终止之日起十五日内，持相关证明文件，申请土地抵押权、地役权注销登记。

Article 54 If the parties concerned fail to apply for cancellation registration according to Article 51, 52 or 53 of the present Measures, the administrative department of land and resources shall

order them to file the application within a time limit; if they still fail to do so, the administrative department of land and resources shall give a cancellation announcement, and may directly make the cancellation registration at expiration of the notification term.

第五十四条 当事人未按照本办法第五十一条、第五十二条和第五十三条的规定申请注销登记的，国土资源行政主管部门应当责令当事人限期办理；逾期不办理的，进行注销公告，公告期满后可直接办理注销登记。

Article 55 If the parties concerned fail to apply for mortgage cancellation registration of the land use right after the term of land mortgage expires, except that the land use right on which the mortgage right is created expires, the administrative department of land and resources shall not directly cancel the mortgage registration of the land use right.

第五十五条 土地抵押期限届满，当事人未申请土地使用权抵押注销登记的，除设定抵押权的土地使用权期限届满外，国土资源行政主管部门不得直接注销土地使用权抵押登记。

Article 56 After the cancellation of land registration, the land right certificate shall be taken back; if the certificate really can not be taken back, the situation shall be stated on the land register, and the certificate shall be annulled upon announcement.

第五十六条 土地登记注销后，土地权利证书应当收回；确实无法收回的，应当在土地登记簿上注明，并经公告后废止。

Chapter VII Other Types of Registration

第七章 其他登记

Article 57 The “other types of registration” as mentioned in the present Measures shall include the rectification registration, objection registration, pre-announcement registration and seizure registration.

第五十七条 本办法所称其他登记，包括更正登记、异议登记、预告登记和查封登记。

Article 58 If the administrative department of land and resources discovers any errors in the items recorded down on the land register, it shall make the rectification registration after reporting it to the people’s government for approval, and notify the parties concerned in written form to handle the formality of altering or canceling the land right certificate within the prescribed time limit. If the parties concerned fail to handle the said formality within the time limit, the original land right certificate shall be annulled after the administrative department of land and resources has given a report to the people’s government for approval and made an announcement.

If the rectification registration involves land ownership, an announcement shall be made for the rectification registration results.

第五十八条 国土资源行政主管部门发现土地登记簿记载的事项确有错误的，应当报经人民政府批准后进行更正登记，并书面通知当事人在规定期限内办理更换或者注销原土地权利证书的手续。当事人逾期不办理的，国土资源行政主管部门报经人民政府批准并公告后，原土地权利证书废止。

更正登记涉及土地权利归属的，应当对更正登记结果进行公告。

（相关资料：裁判文书 2 篇）

Article 59 If a land obligee considers that there is any error in the items recorded down on the land register, he can apply for the rectification registration upon the strength of the original land right certificate and the relevant material that can prove the wrong registration.

If any interested party considers that there is any error in the items recorded down on the land register, he can apply for the rectification registration upon the strength of the certification document on consent to the rectification as issued by the land obligee.

第五十九条 土地权利人认为土地登记簿记载的事项错误的，可以持原土地权利证书和证明登记错误的相关材料，申请更正登记。

利害关系人认为土地登记簿记载的事项错误的，可以持土地权利人书面同意更正的证明文件，申请更正登记。

（相关资料：地方法规 1 篇）

Article 60 If the obligee recorded down on the land register does not consent to the rectification, the interested party can apply for the objection registration.

If an application for objection registration meets relevant requirements, the administrative department of land and resources shall record down the relevant items on the land register, and issue an objection registration certificate to the applicant, and simultaneously notify the land obligee as recorded down on the land register in the written form.

During the period of objection registration, without consent of the obligee of objection registration, the alteration registration of land rights may not be made and the land mortgage right may not be created.

第六十条 土地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。

对符合异议登记条件的，国土资源行政主管部门应当将相关事项记载于土地登记簿，并向申请人颁发异议登记证明，同时书面通知土地登记簿记载的土地权利人。

异议登记期间，未经异议登记权利人同意，不得办理土地权利的变更登记或者设定土地抵押权。

Article 61 Under any of the following circumstances, an applicant for objection registration or the land obligee recorded down on the land register can apply for canceling the objection registration upon the strength of relevant material:

- 1.The applicant for objection registration has not lodged any lawsuit within 15 days after the day of objection registration;
2. The people's court does not accept the lawsuit lodged by the applicant for objection registration; or

3. The people's court does not support the claim put forward by the applicant for objection registration.

If, after the invalidity of objection registration, the original applicant files a new application for objection registration regarding the same matter, the administrative department of land and resources will not accept the application.

第六十一条 有下列情形之一的，异议登记申请人或者土地登记簿记载的土地权利人可以持相关材料申请注销异议登记：

- （一）异议登记申请人在异议登记之日起十五日内没有起诉的；
- （二）人民法院对异议登记申请人的起诉不予受理的；
- （三）人民法院对异议登记申请人的诉讼请求不予支持。

异议登记失效后，原申请人就同一事项再次申请异议登记的，国土资源行政主管部门不予受理。

Article 62 After the parties concerned conclude an agreement on transfer of land rights, they can apply for pre-announcement registration according to their stipulations and upon the strength of the transfer agreement.

If the requirements for pre-announcement registration are met, the administrative department of land and resources shall record down relevant matters on the land register, and issue a pre-announcement registration certificate to the applicant.

After the pre-announcement registration, if the creditor's right is eliminated or the parties concerned fail to apply for land registration within three months after the day when the land registration can be made, the pre-announcement registration shall be invalidated.

During the period of pre-announcement registration, without consent of the obligee of pre-announcement registration, neither the alteration registration of land rights nor the registration of land mortgage right nor easement may be made.

第六十二条 当事人签订土地权利转让的协议后，可以按照约定持转让协议申请预告登记。

对符合预告登记条件的，国土资源行政主管部门应当将相关事项记载于土地登记簿，并向申请人颁发预告登记证明。

预告登记后，债权消灭或者自能够进行土地登记之日起三个月内当事人未申请土地登记的，预告登记失效。

预告登记期间，未经预告登记权利人同意，不得办理土地权利的变更登记或者土地抵押权、地役权登记。

Article 63 The administrative department of land and resources shall report the seizure or anticipatory seizure to the people's government for approval and then record it down on the land register according to the ruling for seizure or the notice for assistance in execution as provided by the people's court.

第六十三条 国土资源行政主管部门应当根据人民法院提供的查封裁定书和协助执行通知书，报经人民政府批准后将查封或者预查封的情况在土地登记簿上加以记载。

Article 64 When the administrative department of land and resources is offering assistance to the people's court for it to execute the land use right, it will not make substantive examination of the lawfully effective ruling for seizure or the notice for assistance in execution. If the administrative department of land and resources considers that the ruling for seizure or anticipatory seizure or the notice for assistance in execution provided by the people's court is wrong, it may put forward an examination suggestion to the people's court, but shall not stop the assistance in execution.

第六十四条 国土资源行政主管部门在协助人民法院执行土地使用权时，不对生效法律文书和协助执行通知书进行实体审查。国土资源行政主管部门认为人民法院的查封、预查封裁定书或者其他生效法律文书错误的，可以向人民法院提出审查建议，但不得停止办理协助执行事项。

Article 65 For the seizure of land use right which has been gotten by the enforcee due to inheritance, judgment or compulsory execution, if the alteration registration has not been made yet, the administrative department of land and resources shall, according to the inheritance certificate, the effective judgment, the ruling for execution or the notice for assistance in execution, etc. which is provided by the people's court of seizure and is the basis for the enforcee to obtain the property, first handle the formality for alteration registration and then make the seizure registration.

第六十五条 对被执行人因继承、判决或者强制执行取得，但尚未办理变更登记的土地使用权的查封，国土资源行政主管部门依照执行查封的人民法院提交的被执行人取得财产所依据的继承证明、生效判决书或者执行裁定书及协助执行通知书等，先办理变更登记手续后，再行办理查封登记。

Article 66 If the land use right is registered under the name of enforcee during the period of anticipatory seizure, the registration of anticipatory seizure shall be automatically changed into the seizure registration.

第六十六条 土地使用权在预查封期间登记在被执行人名下的，预查封登记自动转为查封登记。

Article 67 If two or more people's courts seize one parcel of land, the administrative department of land and resources shall handle the formality of seizure registration for the people's court that first serves the notice for assistance in execution, make the waiting seizure registration for the people's courts that serve the notice for assistance in execution later and notify them of the fact that the land use right has been seized by another people's court as well as the relevant conditions about seizure.

The order of waiting seizure registration shall be arranged according to the sequence of time when the people's courts serve the notice for assistance in execution. If the court of seizure removes the seizure according to law, the waiting seizure in the first place shall be automatically changed into the seizure; if the court of seizure has completely disposed of the seized land use right, the waiting seizure behind shall be automatically invalidated; if the court of seizure has partly disposed of the seized land use right, for the remaining part, the waiting seizure behind

shall be automatically changed into the seizure.

The waiting registration of anticipatory seizure shall be made by reference to Paragraphs 1 and 2 of this Article.

第六十七条 两个以上人民法院对同一宗土地进行查封的，国土资源行政主管部门应当为先送达协助执行通知书的人民法院办理查封登记手续，对后送达协助执行通知书的人民法院办理轮候查封登记，并书面告知其该土地使用权已被其他人民法院查封的事实及查封的有关情况。

轮候查封登记的顺序按照人民法院送达协助执行通知书的时间先后进行排列。查封法院依法解除查封的，排列在先的轮候查封自动转为查封；查封法院对查封的土地使用权全部处理的，排列在后的轮候查封自动失效；查封法院对查封的土地使用权部分处理的，对剩余部分，排列在后的轮候查封自动转为查封。

预查封的轮候登记参照本条第一款和第二款的规定办理。

Article 68 If the term of seizure or anticipatory seizure expires or the people's court removes the seizure, the registration of seizure or anticipatory seizure shall be invalidated, and the administrative department of land and resources shall cancel the registration of seizure or anticipatory seizure.

第六十八条 查封、预查封期限届满或者人民法院解除查封的，查封、预查封登记失效，国土资源行政主管部门应当注销查封、预查封登记。

Article 69 For the land use right that is seized or anticipatorily seized by the people's court, during the period of seizure or anticipatory seizure, the alteration registration of land right or the registration of land mortgage right or easement may not be made.

第六十九条 对被人民法院依法查封、预查封的土地使用权，在查封、预查封期间，不得办理土地权利的变更登记或者土地抵押权、地役权登记。

Chapter VIII Protection of Land Rights

第八章 土地权利保护

Article 70 The state-owned land use right, collective land ownership, collective land use right, land mortgage right and easement as registered according to law shall be protected by law, and no entity or individual may infringe on any of them.

第七十条 依法登记的国有土地使用权、集体土地所有权、集体土地使用权和土地抵押权、地役权受法律保护，任何单位和个人不得侵犯。

（相关资料：裁判文书 1 篇）

Article 71 The administrative department of land and resources under the people's government at or above the county level shall strengthen the information system and database construction of land registration results, and realize the information sharing and trans-regional enquiry of national and local land registration results.

第七十一条 县级以上人民政府国土资源行政主管部门应当加强土地登记结果的信息系统和数据库建设，实现国家和地方土地登记结果的信息共享和异地查询。

Article 72 The State implements the public enquiry system of land registration material. The land obligee or any interested parties may apply for enquiry of land registration material, and the administrative department of land and resources shall offer such material.

The public enquiry of land registration material shall be carried out according to the Measures for Public Enquiry of Land Registration Material.

第七十二条 国家实行土地登记资料公开查询制度。土地权利人、利害关系人可以申请查询土地登记资料，国土资源行政主管部门应当提供。

土地登记资料的公开查询，依照《土地登记资料公开查询办法》的规定执行。

Chapter IX Legal Liabilities

第九章 法律责任

Article 73 If any parties forge a land right certificate, the administrative department of land and resources under the people's government at or above the county level shall confiscate the forged land right certificate; if the circumstances are serious and a crime is constituted, the violator shall be investigated for criminal liabilities.

第七十三条 当事人伪造土地权利证书的，由县级以上人民政府国土资源行政主管部门依法没收伪造的土地权利证书；情节严重构成犯罪的，依法追究刑事责任。

Article 74 If any functionary in the administrative department of land and resources neglects his duties, misuses his authorities or illegally serves for his relatives or friends in the land registration, he shall be given an administrative sanction; and if a crime is constituted, he shall be investigated for criminal liabilities.

第七十四条 国土资源行政主管部门工作人员在土地登记工作中玩忽职守、滥用职权、徇私舞弊的，依法给予行政处分；构成犯罪的，依法追究刑事责任。

Chapter X Supplementary Provisions

第十章 附则

Article 75 Upon determination of the people's government of the province, autonomous region or municipality directly under the Central Government, the local people's government at or above the county level shall determine one department to be uniformly responsible for land and housing registration, the contents of land registration in the real estate registration shall comply with the present Measures, and the contents and formats of real estate ownership certificates shall be subject to the examination and approval of the administrative department of land and resources under the State Council.

第七十五条 经省、自治区、直辖市人民政府确定，县级以上地方人民政府由一个

部门统一负责土地和房屋登记工作的,其房地产登记中有关土地登记的内容应当符合本办法的规定,其房地产权证书的内容和式样应当报国务院国土资源行政主管部门核准。

Article 76 The announcement required in the land registration according to the present Measures shall be made on the portal website of the people's government or the administrative department of land and resources.

第七十六条 土地登记中依照本办法需要公告的,应当在人民政府或者国土资源行政主管部门的门户网站上进行公告。

Article 77 If a land right certificate is destroyed or lost, the land obligee may not apply for re-issuance until he has announced the destruction or loss on the designated medium. The land right certificate as reissued shall be marked as "reissued".

第七十七条 土地权利证书灭失、遗失的,土地权利人应当在指定媒体上刊登灭失、遗失声明后,方可申请补发。补发的土地权利证书应当注明“补发”字样。

Article 78 The present Measures shall come into force from February 1, 2008.

第七十八条 本办法自 2008 年 2 月 1 日起施行。

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