



Leasehold Right Bill is expected to become effective in Thailand shortly

On 12th February, 2019, the Leasehold Right Bill received the endorsement of the National Legislative Assembly (“NLA”) and shall become effective shortly. Under Leasehold Right Bill, an owner of a plot of land or a condominium unit is required to register the plot of land or the condominium unit at a land office to receive a certificate of the Leasehold right. The Leasehold Bill, if endorsed into an Act, would increase the benefits and flexibility of property arrangements by allowing for greater flexibility in land usage to improve the national economy and also boosting investor confidence in the economy. The key point is to provide a holder of the Leasehold Right over the property to use land and building or the property by way of letting, sale or transfer within the maximum term of 30 years.

In addition, the Leasehold right can also be used as collateral for performance of debts.

Furthermore, the holder of the derivative property right can renovate or modify the building without the permission of the lessor, unless it is otherwise provided for in the contract. When the contract is terminated, the property that is renovated, or modified will belong to the owner of the property. The derivative property right agreement must be made in writing and registered at a land office.

This Right under the Bill is designed to create another option for an owner of the property apart from leasing under Civil and Commercial Act of Thailand, therefore, the owner of the property can consider and choose the most beneficial way to meet their needs.

The Bank of Thailand has relieved the rules for International Authorized Money Transfer Agents

On 24th January, 2019, The Bank of Thailand (“BOT”) has issued the announcement No.3/2019 (“Law”) in order to amend principles and practices of International Authorized Money Transfer Agents (“Agent”) law. The purpose of this amendment is to alleviate the strictness of the previous regulation relating to qualification of the Agent and rules of undertaking this business. The key points of the new Law can be summarized as follows:

1. The Agent is allowed to apply for undertaking business without any requirement to formerly have an experience in conducting in any required business such agent includes a large department store that has foreign customers or an international business related to the issuance of foreign traveler’s cheques and/or international credit cards.
2. The Agent shall be a juristic person registered in Thailand with its paid-up registered capital not less than 100 million Baht, and at least 25% of paid-up registered capital shall be contributed by a Thai citizen or a juristic person registered in Thailand. Furthermore, the Agent which is a juristic person shall appoint at least one authorized or executive director who is Thai and has his/her domicile in Thailand.
3. Under the new law, the Agent can be a foreign company registered in Thailand due to the new proportion of shareholding that is required, as a result, the Agent is required by the Foreign Business Act of

Thailand to apply for a foreign business license before undertaking said business.

4. The Agent wishing to apply for undertaking the business must have a reliable international money transfer network.
5. The Agent is able to receive and pay Baht currency to recipients in Thailand in various forms, for example, to receive or pay Baht currency via account deposit of transferor or transferee, or receiving Baht via credit card from customers.
6. The Agent shall give evidence to the customers and keep one copy at the office for at least 5 years for inspection by the Competent Officer.

The new Law became effective on 31st January 2019.

Additional Privileges for Promoted Company Registered with the SEC

On 28th December, 2018, the Board of Investment (“BOI”) of Thailand has announced the Declaration No. 12/2561, bringing in new measures to support promoted businesses in Thailand. Any promoted businesses are allowed to apply for this measure before 30th December 2020. The key details can be summarized as following:

1. The promoted business, which is registered with the office of Securities and Exchange Commission, can now benefit from the additional tax exemption in amount of 100 percent of capital excluding land and working capital;
2. The promoted businesses shall be registered with the office of the SEC before applying for this measure, the registered date with the SEC pertains to the date on which the promoted business’ ordinary shares are listed on the Stock Exchange of Thailand;

However, this measure is not applicable for any promoted business, if said business is as of yet not listed on the Stock Exchange of Thailand.

The New Law of Public Private Partnership in Thailand will become effective

On 7 February 2019, the National Legislative Assembly (“NLA”) has passed Public Private Partnership Bill (“PPP” law), which is now awaiting to be published in the Royal Gazette, and it will replace the Private Investments in State Undertakings Act provision (“PISU” Act) that has been applied from 2013. The purpose of the PPP law is to increase the transparency and fairness in the selection process of choosing the private investors to invest in public-private joint investment by any means, moreover, the PPP law also boosts additional benefits for private investors whereby the private investors receive more privileges on investment and pay lower amount on project costs than as specified in the PISU Act.

Under the PPP law, the state agencies can propose the project to foreign and domestic private investors to engage with the proposed projects. The scopes of infrastructure projects development under PPP law includes various interesting national plans such as roads, railways, airports, seaports, energy, housing, telecommunications, hospitals, schools and others which shall be later specified in royal decrees. Furthermore, any private investor, who engage in the projects, is entitled to supportive measures providing as follows:

1. Obtain privileges under the Board of Investment Promotion Act.
2. Receive rights to lease lands or immovable properties relating a project with a maximum term of 50 years.
3. Receive other financial and non-financial support with close monitoring from the public sector

Thailand plans to extend at least 400,000 rai in industrial areas for Eastern Economic Corridor (“EEC”)

In January 2018, a new town planning regulation for the EEC (“Plan”) was approved by The Eastern Economic Corridor Policy Committee in order to rearrange and increase the land to ensure that will have sufficient space for investors in industrial development. This Plan will cover Chachoengsao, Chon Buri and Rayong provinces with the increasing areas of industry in the EEC of 409,492 rai.

Trans Fatty Acids is now legally banned in Thailand

The Ministry of Public Health of Thailand has issued its Notification No. 388 BE 2561 (2018), which has become effective since 9th January 2019, that hydrogenated oil as well as food containing them shall be forbidden in any kind of activities including production, import and sale. The reason behinds this Notification is that trans fatty acid contained in such oils increases the risk of coronary artery disease. Any violation shall be punished under Section 50 of the Food Act BE 2522, with the panealty of imprisonment from 6 months to 2 years and fine from THB 5,000 to THB 20,000.

A Bill Amending Electronic Transaction Act B.E. 2544 has been passed by the NLA

On 20 February 2019, a bill amending Electronic Transaction Act B.E. 2544 (the “Bill”) has been passed by the National Legislative Assembly (“NLA”). Now, it is under the process of publishing in the Royal Gazette before it becomes effective. The amendment significantly focuses on identity proofing and authentication of person via digital method. Under the Bill, the term “identity proofing and authentication” means a process of correctness of identity proofing and authentication

and the term “identity proofing and authentication system” is defined as an electronic network connecting data between persons and government agencies for a purpose of identity proofing and authentication and other transactions relating to that purpose. Additionally, the person in charge is changed from the Prime Minister to the Minister of Digital Economy and Society.

As key substances, the Bill also provides that identity proofing and authentication can be made through digital method. Any person, wishing to use identity proofing and authentication of the third party through any identity proofing and authentication system, may inform the third-party conditions concerning reliance of identity proofing and authentication system in advance. After the conditions have been met, a person who is proved and authenticated shall be deemed the correct person. The conditions shall not be lower than the standard requirements regulated by law concerning accessible securities, convenient utility of the public, and non-discrimination.

For purposes of financial stability, reliance and acceptance in identity proofing and authentication system, and prevention of damages to the public, the royal decree shall be issued in order to regulate that any operator providing identity proofing and authentication system shall obtain a license before starting such business. In the case that such royal decree is issued, an operator shall file an application for on which a license within 90 days since the date the royal decree becomes effective.

Should you have any question, please do not hesitate to contact us via info@bglballaw.com

