

A foreigner can legally own some Thai-LAND

It is a common misunderstanding that foreigners are *per se* restricted from owning land in Thailand. One of the most interesting exceptions from the restrictions of foreign ownership of land in Thailand has been enacted for foreigners who bring at least Thai baht forty million equivalent into Thailand for certain prescribed investments. Such foreigner may apply for freehold ownership of up to 1,600 square meters of land under the rules, procedures and conditions prescribed by Section 96(bis) of the Land Code (as amended by the Land Code Amendment Act No. 8 (1999)) and in the 2002 Ministerial Regulation issued under the Act.

To apply, a foreigner must submit an application (the “Foreigner 4 Form”, available at any local land office) together with the following documents:

- (1) a copy of the applicant’s passport;
- (2) evidence of the not less than Thai baht forty million **Prescribed Investment**, in any of the following formats:
 - (a) a letter of investment confirmation from a seller of bonds of Thai Government, bonds of the Bank of Thailand, bonds of a State Enterprise or bonds of which the Ministry of Finance secures the capital or interest; and/or
 - (b) a letter from the Asset Management Company confirming that the applicant has invested in a prescribed mutual fund relevant Securities and Stock Exchange, and law and evidence of investment in such fund; and/or
 - (c) evidence showing that the applicant has invested in the share capital of a juristic person who is granted investment promotion under the relevant investment promotion law; and/or
 - (d) evidence of engaging in an activity that is entitled to investment promotion under the relevant investment promotion law;
- (3) evidence of bringing a foreign currency into Thailand, or the withdrawal of the money from a foreign currency account or from a non-resident Thai baht account for the investment (*note: evidence of investment in any one or combination of (1), (2)(a) – (d)*)

and/or (3) may be provided as long as total amount invested is Thai baht forty million or more);

- (4) a letter of confirmation certifying that the land the foreigner wishes to own (the “**Land**”) is located within a prescribed “residential area” from the relevant authority who oversees town and country planning where the Land is located;
- (5) a letter from the Ministry of Defense or from the agency concerned, confirming that the Land is not located in a military safety zone; and
- (6) a map showing the location of the Land.

The application documents must be submitted at the **Relevant Land Office** which has jurisdiction over the land the foreigner wishes to own. The decision to grant the permission to will then be made by the authorities delegated such responsibility by the Minister of the Interior.

Any such ownership grant however is subject to the certain conditions: **(1)** the grantee shall maintain the Prescribed Investment for a continuous period of not less than five years as from the date of registration of ownership of the Land (the “**Investment Period**”) and shall submit evidence of such to the Relevant Land Office once a year, for five consecutive years; **(2)** the grantee shall utilize the Land for residential purposes and in a way that is not contrary to the public interest or local customs; **(3)** the grantee shall inform the Relevant Land Office within sixty days as from the date of utilization of the Land for residential purposes; **(4)** the grantee shall facilitate the Relevant Land Office in supervising the use of the Land to ensure that the utilization is in accordance the prescribed conditions; **(5)** if the grantee withdraws the Prescribed Investment before the end of the Investment Period, the grantee shall inform the Relevant Land Office of such withdrawal within sixty days; **(6)** if the grantee does not comply with (1) – (5) the **Director General** of the Department of Lands shall have the power to order the grantee to dispose of the Land within a period of not less than one hundred eighty days and not more than one year, failing which the Director General shall have the power to dispose of the Land; **(7)** the grantee shall utilize the Land for residential purposes within two years as from the date of registration of ownership of the Land. If the grantee does not do so, the Director General shall have the power to dispose of the Land.

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