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Draft Condominium Law

Pyidaungsu Hluttaw Law No. /2013

1375, Month Day

(2013, Month Day)

The Pyidaungsu Hluttaw hereby enacts this law.

Chapter 1

Title, Relation and Definition

1. This law shall be called the Condominium Law.
2. This law shall cover the Naypyitaw Development Area, the Yangon City Development Area, the Mandalay City Development Area and the towns and regions specified by notification issued by the Ministry of Construction with the approval of the Union Government.
3. The following expressions contained in this law shall have the meanings given hereunder-
 - (a) **Condominium** means a building constructed according to this law as collectively owned high-rise apartment building on collectively owned registered land. In this expression, collectively owned properties managed for the purpose of being used by collective owners are also included;
 - (b) **Collectively owned property** means properties connected with collectively owned buildings as follows-
 - (1) collectively owned land registered according to this law;
 - (2) the parts of the collectively owned building and installed equipments which are beneficial to all collective owners, except individually owned apartments constructed on the said collectively owned land;
 - (3) Buildings constructed or managed to be used for the benefit of the collective owners, educational and health buildings and properties, compounds, gardens, trees and flowers, water supply, waste disposal and sanitary facilities, energy distribution facilities, roads, bridges and drains, telecommunication facilities.
 - (c) **Collectively owned land** means land and vacant land that benefits all collective owners and where the collectively owned building and the collectively owned property is situated;

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- (d) **Foreigner** means a person who is neither a citizen nor an associated citizen nor a naturalized citizen;
- (e) **Developer** means a department, organization or person which/who has obtained a business license issued under section 10, sub-section (b) allowing it/him to invest money in order to establish a condominium business. In this expression, banks and financial institutions and insurance companies are not included;
- (f) **Collective owner** means a person who has received an apartment ownership registration certificate. In this expression, an heir to this person is also included;
- (g) **Ownership share value** means the ratio specified by the developer, with the agreement of the Department, of the transferred values of the respective apartments of the condominium, or which is used to determine the amounts to be contributed towards the fund for the management and maintenance of the condominium;
- (h) **Apartment** means an apartment constructed and separately walled in order to be individually owned for residence or business purposes;
- (i) **Association** means a condominium association which has obtained a registration certificate issued under section 23, sub-section (b) of this law for the management and maintenance of the condominium;
- (j) **Member of the association** means a person who has received an apartment registration certificate evidencing that he owns an apartment in the condominium;
- (k) **Executive committee** means the executive committee of a condominium elected and organized under this law for the management and maintenance of the condominium;
- (l) **Temporary committee** means a temporary committee of the condominium organized in accordance with section 29 of this law;
- (m) **Ministry** means the Ministry of Construction of the Union Government;
- (n) **Department** means the Department of Human Settlement and Housing Development;
- (o) **Director General** means the Director General of the Department of Human Settlement and Housing Development;
- (p) **Registrar** means the condominium registrar appointed by the Ministry of Construction and charged with registering the deeds and documents relating to condominiums and collectively owned land.

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Chapter 2

Objectives

4. The objectives of this law are as follows:-
 - (a) To support urban and regional development;
 - (b) To create community housing in order to provide adequate of housing for an increasing population in the urban areas;
 - (c) To coordinate the work of the relevant government departments and organizations in order to support urban area development and beautification;
 - (d) To establish a legal framework in which condominium apartments can be legally owned and transferred;
 - (e) To increase cooperation with international organizations and regional organizations.

Chapter (3)

Registration and establishment of a condominium

5. This law shall cover only collectively owned land and condominiums registered according to this law.
6. The developer must construct the condominium only on collectively owned land registered under this law.
7. Land which may be registered as collectively owned land under this law for the purpose of constructing a condominium-
 - (a) shall be of the "residential area" type and of the type that allows the transfer of ownership under any existing law;
 - (b) shall have been transformed into "collectively owned" land;
 - (c) shall be in conformity with the provisions stipulated by the relevant department or organization for a specific urban project;
 - (d) shall have an area of one acre or more than one acre. If the area is less than one acre, special approval from the Ministry must be sought.
8. The Ministry shall specify the minimum number of floors, the minimum number of apartments and the collective facilities to be used by the collective owners.
9. If a building was completed, or if construction started, before the effective date of this law, it may be registered as a condominium, provided that it conforms to the provisions

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- stipulated under section 7 and section 8. If it does not conform to these provisions, it may be registered as condominium nevertheless if special permission of the Ministry is acquired.
10. (a) A person desirous to establish a condominium business shall have a specified minimum paid-up capital and shall apply to the Department in accordance with the stipulations in order to acquire a business license.
(b) If the Department accepts, after scrutiny, the license application under sub-section (a), it shall collect the license fee, prescribe terms and conditions and issue the business license.
(c) If the developer wants to extend the validity of the business license, he shall proceed in accordance with the stipulations.
 11. (a) If the developer wants to build a condominium, he shall apply to the Department in accordance with the stipulations in order to acquire permission to do so; to the application he shall attach required documents concerning the collectively owned land and the condominium, the land and building map [like blueprint], information as to the collectively owned facilities and the ownership share value.
(b) The Department shall submit the application under sub-section (a) to the Ministry, collect recommendations of the relevant development committee or development team, and report to the Ministry with its own remarks.
 12. The Ministry shall, after having scrutinized the Department's submission and negotiated with the relevant government departments and organizations, issue or refuse to issue the permission.
 13. (a) The Ministry shall assign registrars to the duty of registering deeds and documentary evidence regarding collectively owned land and condominiums.
(b) The developer shall register the deeds for establishing collectively (ownership over) owned land with the relevant registrar.
(c) The registrar shall, after having scrutinized the deeds for establishing collectively owned land, register them in accordance with the stipulations.
 14. Land which has been registered as collectively owned land may not be owned in the name of any department, organization or person and shall exist as collectively owned land for the benefit of all the collective owners.

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15. The developer-
 - (a) shall, upon receiving the permission issued under section 12, construct the condominium on the registered collectively owned land in accordance with the stipulations;
 - (b) shall, if the construction of the condominium is completed, obtain the "residential permission" under the existing laws and regulations and register with the registrar the deeds and documentary evidence for establishing the condominium;
 - (c) shall have the right to transfer not more than 40% of apartment on the six floor and above of the condominium to foreigners.
16. The registrar shall retain a copy of the apartment registration certificate after having issued an apartment registration certificate to the developer. He shall register in accordance with the stipulations the deeds and the documentary evidence for establishing the condominium and the apartments of the condominium.
17. When transferring the registered apartment by any of the methods mentioned below, the transferor and the transferee shall register the deeds in accordance with the stipulations with the registrar within 30 days from the day of transfer-
 - (a) Gift, release, exchange;
 - (b) sale;
 - (c) transfer of ownership by an order or decree of a final and exclusive court.
18. (a) The developer shall pay the stamp duty specified by the Myanmar Stamp Act for the deeds registered in connection with the collectively owned land and the condominium.
(b) The person to whom an apartment is transferred by any of the methods mentioned in section 17 shall pay the specified stamp duty in accordance with the Myanmar Stamp Act for the deed of transfer.
19. When registering the deed of transfer by any of the methods mentioned in section 17-
 - (a) the person to whom the apartment is transferred shall pay the registration fees in accordance with the stipulations;
 - (b) the registrar shall issue an apartment registration certificate after having registered the transfer in a separate registration book in accordance with the stipulations.
20. The collective owner shall pay the registration fees and the penalties specified by the Ministry if the deed of transfer is, after he has transferred the apartment by any of the means mentioned in section 17, registered after the specified period.

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Chapter 4

Formation of the temporary supervisory team and the condominium association

21. After the condominium is constructed a "residence permission" is obtained-
 - (a) the Department shall form a temporary supervisory team consisting of a minimum of 3 suitable members, chosen from amongst employees of the Department, or collective owners, or both, and shall specify its functions and duties for the purpose of management and maintenance of the building for the time that no association has been established due to less than 50% of the apartments having been sold.
 - (b) After 50% or more of the apartments have been sold, the temporary supervisory team established under sub-section (a) shall, for the management and maintenance of the building, form the condominium association consisting of all the collective owners as members.
22. The temporary supervisory team shall draw up the constitution of the association based on the model constitution issued by the Department; the constitution must be approved by majority vote of the collective owners. Then it shall form the condominium association composed of the members, either for one building (condominium) or more than one building (condominium) constructed on the collective owned land.
23. (a) The temporary supervisory team shall register the association and its constitution with the Department.
 - (b) The Department shall issue the association registration certificate to the registered association.
24. The association shall have the right to be a legal entity with perpetual succession, capable of suing and being sued under its own name and own seal.
25. The temporary supervisory team shall perform its function and duties until the formation of the executive committee or temporary committee is completed for the condominium.

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Chapter (5)

Formation of the condominium executive committee and its functions and duties

26. (a) The temporary supervisory team shall convene a special general meeting of the association to form the condominium executive committee in accordance with the constitution of the association.
- (b) After the first condominium executive committee is established, subsequent condominium executive committees are to be formed by the annual general meeting of the association held in accordance with its constitution.
- (c) The elected executive committees formed under sub-sections (a) and (b) shall consist of a minimum of five and of a maximum of nine members of the association.
- (d) The members of the executive committee formed under sub-section (c) shall select the chairman, secretary and treasurer from amongst the members and assign them their duties.
- (e) A member who is knowledgeable in accounting shall be appointed as auditor. If it is necessary, external auditors may be appointed.
27. (a) The annual general meeting or the special general meeting of the association shall have, by majority vote of the members, the power to terminate a member if he is not dutiful or guilty of malpractice.
- (b) If any member of the executive committee wants to resign for any reason, he may do so after having submitted his resignation letter to the executive committee.
- (c) Any vacant post for member of the executive committee shall be filled in the annual general meeting or special general meeting of the association.
28. The executive committee:
- (a) shall, with the approval of the annual general meeting, issue the rules and regulations to be followed by the members of the association and the residents of the condominium;
- (b) shall, in accordance with the decision of the annual general meeting or the special general meeting of the association, specify the contributions of the members of the association towards the fund [used for the maintenance of the condominium] based on the ownership share value.
- (c) The executive committee shall convene an annual general meeting or a special general meeting to increase the ownership share value or extend or modify the condominium; a majority of 3/4 of the votes of the members is required.

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- (d) shall, regarding the use of the fund to which the members contribute, compile accounting documents and have them examined by the auditor. A statement on the expenses covered from the fund shall be sent to every member;
- (e) shall obtain fire insurance and other necessary insurances for the condominium;
- (f) shall levy a fine on any member who omits to contribute to the fund equivalent to the amount of a single contribution.
- (g) shall open a bank account and systematically maintain the fund.
- (h) shall submit a report regarding the raising, performance and using of the fund to the annual general meeting of the association and shall implement measures in accordance with the general meeting's decision. A report of the activities of the association and an audited financial report shall be submitted to the nearest annual general meeting to obtain its approval;
- (i) shall maintain and renovate the condominium for the benefit of the members;
- (j) shall appoint the necessary employees for the management and maintenance of the condominium;
- (k) shall inspect whether the water supply system, sewage and waste water disposal system and sanitary system, power distribution system, roads, bridges and drains, telecommunication and security system are working and shall, where necessary, repair or exchange these facilities;
- (l) shall, after scrutinizing the member's application, issue a recommendation letter to be filed together with a member's application to the relevant government department or organization for obtaining permission to carry out maintenance or renovation work in the member's apartment;
- (m) shall convene regular meetings of the executive committee and annual general meetings of the association in accordance with the stipulations. Shall convene special meetings of the executive committee and special meetings of the association in accordance with the constitution of the association;
- (n) shall upkeep the records of the collectively owned land, of the condominium and of the apartments and also shall compile the records concerning the transfer of apartments;
- (o) shall issue, after scrutinizing the matter, a recommendation concerning the transfer of an apartment by any of the methods mentioned in section 17;

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- (p) shall, if necessary, certify the registered documents kept by the registrar to check whether the transfer of an apartment by any of the means mentioned in section 17 is done correctly or not.
- (q) shall conciliate disputes occurring amongst residents of the condominium.
29. The Department shall, for the time that no executive committee is established, form a temporary executive committee consisting of a minimum of three suitable persons out of the members of the association which is to temporarily assume the duties of the executive committee.
30. (a) If 1/4 of all the members want to amend the constitution of the association they shall submit the matter to the executive committee.
- (b) The executive committee shall seek the approval of the Department for the amendment and shall amend, supplement, substitute or repeal the constitution of the association if the motion is approved by at least 3/4 of all members in the annual or in a special general meeting of the association.
- (c) The executive committee shall submit the amended constitution of the association to the Department.

Chapter (6)

Rights and obligations of the member(s)

31. A member-
- (a) shall have the right to register, with the registrar, documents for the transfer of an apartment by any method of transfer mentioned in section 17. He shall have the right to change the title to the transferee;
- (b) shall be entitled to own the apartment after the transfer documents have been registered under this law;
- (c) shall have the right to sell, exchange, give as a gift, release, lease or mortgage the apartment to/with a citizen or allow a citizen to occupy it;
- (d) (i) shall have the right to lease or mortgage the apartment to a foreigner or allow a foreigner to occupy it;
- (ii) shall have the right to sell, exchange, give as a gift and release not more than 40% of the apartments located on the sixth floor of the condominium and above to a foreigner;

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- (e) shall have, after acquiring the permission of the executive committee, the right to renovate, and do minor repairs of, the interior part of his apartment at his expenses if these works do not affect the original design and strength of the condominium;
- (f) shall own the fund of the association together with all the collective owners;
- (g) shall, with the permission of the executive committee, have the right to use the collectively owned land temporarily for social affairs;
- (h) shall have the right to attend the annual general and special meetings of the association and, at the meeting, make proposals, vote, be elected as member of the executive committee and elect members of the executive committee.

32. The member-

- (a) shall contribute towards the fund kept for the maintenance and management of the condominium on the basis of the ownership share value. The member shall also make these contributions if he has rented out the apartment and there is no specific agreement with the lessee;
- (b) shall be collectively responsible to take care of the sustainability of the condominium and the collectively owned properties and for keeping the good condition of the sanitation and security system of the condominium;
- (c) shall inform the executive committee if the apartment owned by him is rented out or mortgaged or he has given permission to a person to occupy it;
- (d) shall inform the executive committee in advance according to the stipulations before transferring his apartment by any of the methods of transfer mentioned in section 17;
- (e) shall be responsible for any damage to the condominium or collectively owned properties that has arisen by his own fault or by the fault of the lessee or the mortgagee in possession or a person staying in the apartment with the member's permission, unless there is a specific agreement with such persons.
- (f) shall, if he renovates the apartment or performs minor repairs of the apartment with the permission of the executive committee, not affect the building's original design and strength;
- (g) shall, if he obtains specific permission from the executive committee, have the right to use the apartment for other purposes apart from residence and doing business.

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Chapter (7)

Functions and duties of the Department

33. (a) The Department shall specify the rules and regulations to be followed by the residents of the condominium with the consent of the Ministry.
- (b) The Department shall perform the following functions and duties under the guidance of the Ministry -
- (i) shall lead, organize, educate and motivate in order to create adequate housing in densely populated urban areas, ameliorate modern high-rise buildings and moderate the development of the condominium system;
 - (ii) shall communicate with the relevant government departments and organizations, regional organizations and international organizations and provide necessary assistance to the developers in order to achieve a modern development of condominiums;
 - (iii) shall render necessary support to the executive committees after laying down rules pertaining to the sustainability, neatness and tidiness and renovation of the completed condominiums;
 - (iv) shall give, after having scrutinized the matter, its consent to the ownership share value proposed by the developer for the respective apartment in the condominium;
 - (v) shall research, study and disseminate local and foreign technologies relevant to developing the condominium system;
 - (vi) shall inspect the accounts for the fund of the association if necessary.

Chapter (8)

Reconstruction after dismantling the condominium and terminating the condominium system

34. The whole or part of the condominium building shall be reconstructed, or the condominium system shall be terminated for any reason, if 75% of the members vote in favour of it in an annual or special general meeting.
35. (a) The executive committee shall submit the decision of the general meeting passed in accordance with section 34 to the Department in accordance with the stipulations in order to implement it.
- (b) The Department shall forward the submission made in accordance with sub-section (a) to the Ministry together with the Department's opinion and remarks.

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- (c) The Ministry shall, after having scrutinized the submission of the Department, approve or refuse it after, if necessary, having consulted with the relevant government departments and organizations.
- (d) The executive committee shall, upon having acquired the Ministry's approval, make appropriate announcements in the newspaper in order to make concerned parties aware of the matter.
36. (a) The executive committee shall submit a copy of the decision of the annual or special general meeting together with a copy of the Ministry's approval within 30 days from the day of issuance of the approval to the registrar.
- (b) The registrar shall make necessary amendments or cancellations in the relevant registration book.
37. (a) The executive committee shall submit, to the Department, a list of the persons who do not remove themselves when the condominium is reconstructed according to the original design after the whole or part of the building was dismantled, or the condominium system was terminated, with the approval of the Ministry.
- (b) The Department shall obtain the assistance of the Myanmar People's Police Force to remove persons featuring in the submission under sub-section (a) for security reasons.
38. (a) The executive committee shall, after having obtained the approval of the Ministry to terminate the condominium system, request the Department to appoint a liquidator.
- (b) The Department shall appoint as liquidator a person competent in accounting who has at least a diploma in accounting.
- (c) The Department shall terminate the functions and duties of the executive committee after appointing the liquidator.
- (d) The liquidator shall arrange for the reimbursement of the ownership share value to the respective members and the settlement of liabilities and rights. In doing so, the liquidator may exercise the duties and powers of a liquidator under the Myanmar Companies Act without the permission of the court.

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Chapter (9)

Offences and penalties

39. Any member and any resident of the condominium convicted [*note: literal translation*] of having violated any regulations stipulated by the Department with the consent of the Ministry shall be liable to a fine of not more than kyats 100,000.
40. Any person convicted of having violated any prohibition contained in this law, or having failed to observe any duties stipulated by the rules and orders issued under this law, shall be liable to a fine of not more than kyats 300,000.
41. Any person convicted of having failed to register the transfer agreement for transferring an apartment under section 17 shall be liable to a fine of not more than kyats 500,000.
42. Any person violating the provisions under section 39, section 40, section 41 and, after having been convicted, continues to commit the same offence, shall, for each day on which he committed the offence, be liable to a fine of 10% of the maximum fine stipulated for the respective offence.

Chapter (10)

Miscellaneous

43. A person not entitled to ownership or possession of the condominium and collectively owned property does not become entitled to ownership or possession by virtue of the matter having become time-barred according to the Limitation Act.
 44. The registrar-
 - (a) shall collect the fine from the person who fails to settle the fine under section 20 as arrears of land revenue and shall recompense the Department;
 - (b) shall collect the contributions to the fund and the fines which are receivable by the association from the person who fails to make the contributions to the fund under section 28, sub-section (f) as arrears of land revenue and recompense the association;
 45. In order to implement the provisions stipulated under this law-
 - (a) The Ministry may issue necessary rules, regulations and byelaws with the consent of the Union Government;
 - (b) The Ministry may issue necessary notifications, orders, directives and procedures. The Department may issue necessary orders and directives.
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