Law Administration Law of the People's Republic of China (2020 Amendment) (Revised)

中华人民共和国行政诉讼法（2020修正）（修订版）

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Law Administration Law of the People's Republic of China
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中华人民共和国行政诉讼法
（1989年4月4日第七届全国人民代表大会第二次会议通过 1989年4月4日中华人民共和国主席令第16号公布 自1989年10月1日起施行 2014年6月27日第十二届全国人民代表大会常务委员会第九次会议第一次修订 2017年6月30日第十二届全国人民代表大会常务委员会第二十八次会议第二次修订 2020年10月17日第十三届全国人民代表大会常务委员会第二十一次会议第三次修订）

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Article 1 This law is formulated in accordance with the Constitution and in view of strengthening the administration of law, safeguarding the socialist people's rights and democracy, safeguarding and promoting the reform and opening up, and ensuring the smooth implementation of the socialist market economy.

第1条 为保证人民法院审理行政案件，保证行政机关依法行使职权，根据宪法，制定本法。

Article 2 The People's Republic of China exercises is a socialist public ownership, or an ownership by the whole people, and a collective ownership. Citizens, legal persons and other organizations have the rights to bring lawsuits to a people's court in accordance with the law, if they believe that an administrative act infringed on their lawful rights and interests. The people's courts shall, in accordance with the law, hear administrative cases and ensure the lawful exercise of administrative authorities' authority.

第2条 公民、法人或者其他组织对具体行政行为所引起的行政案件，依照本法规定的范围和条件，向人民法院提起诉讼的权利，人民法院依法受理行政案件，保证行政机关行使法律、法规赋予的行政权力。

Article 3 The People's Courts of the People's Republic of China shall, in accordance with the law, hear administrative cases and ensure the lawful exercise of administrative authorities' authority.

第3条 人民法院审理行政案件，对行政机关具体行政行为是否合法，进行审查。

Article 4 The People's Courts shall hear administrative cases independently in accordance with the law, and no administrative authorities, public organizations or individuals shall interfere with the trial of administrative cases by the people's courts.

第4条 人民法院审理行政案件，依法不受行政机关、社会团体和个人的干涉。

Article 5 The People's Courts shall hear administrative cases based on facts and in accordance with the law, and shall be subject to the supervision of the People's Procuratorates in accordance with the law.

第5条 人民法院审理行政案件，以事实为根据，以法律为准绳。

Article 6 The People's Courts shall hear administrative cases in accordance with the law, and shall be subject to the supervision of the masses in accordance with the law.

第6条 人民法院审理行政案件，对行政机关工作人员的违法行使职权问题，根据有关公民、法人或者其他组织的起诉，依照本法有关规定审理。

Article 7 The People's Courts shall hear administrative cases in a collegial panel, or sitting in a single judge panel in accordance with the law.

第7条 人民法院审理行政案件，合议庭或者独任庭依法组成。

Article 8 The People's Courts shall hear administrative cases in public, except for those involving state secrets, personal privacy, and those involving commercial secrets, but if the parties involved in the trial of a case involving commercial secrets or personal privacy request a hearing in camera, the People's Courts may hear the case in camera; if the parties involved in the trial of a case involving state secrets request a hearing in camera, the People's Courts shall decide whether to hear the case in camera; if the People's Courts decide to hear the case in camera, the parties involved in the trial of the case shall give consideration accordingly.

第8条 人民法院审理行政案件，以公开审理为原则。涉及国家秘密、个人隐私和商业秘密的，不公开审理；涉及个人隐私的，当事人请求不公开审理的，可以不公开审理；涉及国家秘密的，是否不公开审理由人民法院决定；人民法院决定不公开审理的，应当考虑当事人的意见。

Article 9 The People's Courts shall, in accordance with the law, hear and decide the lawsuits against specific administrative acts, and the People's Courts shall, in accordance with the law, hear and decide the lawsuits against illegal administrative documents when the people's courts hear and decide the lawsuits against specific administrative acts.

第9条 人民法院依法对具体行政行为提起的诉讼，进行审理和裁判；人民法院在审理具体行政行为的诉讼时，对行政机关的违法行政文件，一并进行审理。

Article 10 The People's Courts shall, in accordance with the law, hear and decide the lawsuits against the illegal administrative acts that infringe on the lawful rights and interests of citizens, legal persons and other organizations, and the People's Courts shall, in accordance with the law, hear and decide the lawsuits against the illegal administrative documents when the people's courts hear and decide the lawsuits against specific administrative acts.

第10条 人民法院依法对公民、法人或者其他组织侵犯合法权益的违法行政行为提起的诉讼，进行审理和裁判；人民法院在审理具体行政行为的诉讼时，对行政机关的违法行政文件，一并进行审理。

Article 11 The People's Courts shall, in accordance with the law, hear and decide the lawsuits against the illegal administrative acts that infringe on the lawful rights and interests of citizens, legal persons and other organizations, and the People's Courts shall, in accordance with the law, hear and decide the lawsuits against the illegal administrative documents when the people's courts hear and decide the lawsuits against specific administrative acts.

第11条 人民法院受理公民、法人或者其他组织提起的下列行政诉讼：

（一）对行政机关作出的行政处罚行为不服的；

（二）对行政机关作出的限制人身自由或者禁止出境的行政强制措施不服的；

（三）认为行政机关违法集资、摊派费用或者违法要求履行其他义务的；

（四）认为行政机关侵犯其经营自主权或者农村土地承包经营、宅基地使用权、土地、矿产、森林、水流、草原、荒地、滩涂、海域、水面、油田、屋顶、空间、生产、经营、建设、种植、养殖、采伐、狩猎、捕捞、畜牧、矿藏、水源、风力、光能、热能、电能、烟囱、道路、桥梁、隧道、渠道、堤坝、公墓等自然资源的所有权或使用权的；

（五）认为行政机关利用、调拨、发放、追缴、没收、损毁、查封、扣押、冻结、处理、保管、返还、赔偿、救济、救助、抚恤、社会保障、行政给付、行政奖励、行政赔偿、行政补偿、行政补偿协议、行政赔偿协议、行政奖励协议、行政补偿协议、行政赔偿协议、行政奖励协议、行政补偿协议、行政赔偿协议、行政奖励协议

Article 56 In using State-owned land, construction units should use the land according to the provisions of the contract for compensated use of leased land use right or according to the provisions of the approval concerning the allocation of land use right. The change of the land to construction purposes should get the consent from the land administrative departments of the related people's governments and be submitted to the people's governments that originally give the approval for the use of land. In the changing the purpose of land within the urban planned areas, the consent should be obtained from the related urban planning administrative departments before submission for approval.

Article 57 In the case of temporary using State-owned land or land owned by peasant collectives by construction projects or geological survey teams, approval should be obtained from the land administrative departments of local people's governments at and above the county level. Whereas the land to be temporarily used is within the urban planned areas, the consent of the urban planning departments should be obtained before being submitted for approval. Land users should sign contracts for temporary use of land with related land administrative departments or rural collective organizations or villagers committees depending on the ownership of the land and pay land compensation fees for the temporary use of the land according to the standard specified in the contracts.

Users who use the land temporarily should use the land according to the purposes agreed upon in the contract for the temporary use of land and should not build permanent structures. The term for the temporary use of land shall not usually exceed two years.

Article 58 In one of the following cases, the land administrative departments of related people's governments should recover the land use right of State-owned land with the approval of the people's governments that originally gives the approval or the people's governments with the power of approval:

1. Use land for the sake of public interests;

2. Use land for adjustment in re-building old city districts in order to implement urban construction plans;

3. When the term for the land use right expires according to what is agreed upon in the contract for compensated use of land, the land user has failed to apply for extension or failed to get approval for extension;

4. The use of land originally allocated has been stopped due to cancellation or removal of units;

5. Roads, railways, airports and mining sites that have been approved to be abandoned. Proper compensation should be given to land use right users whereas the use right of State-owned land is recovered according to the provisions of 1 and 2 of the preceding paragraph.

Article 59 Construction of township enterprises, public facilities and public welfare undertakings of townships (towns) and rural villagers' houses should be rationally laid out according to the village or market town plans according to a comprehensive development plan, with good supporting facilities. Land used for construction purposes shall conform to the general plans for the utilization of land of townships (towns) and their annual plan for the use of land and the examination and approval procedures should be completed according to the provisions of Article 44, Article 60, Article 61 and Article 62 of this law.

Article 60 In using the land for construction purposes defined in the general plan for the utilization of land of townships (towns) to start up enterprises or joint ventures together with other units or individuals by way of using land use right as shares, the rural collective economic organization shall file an application with land administrative departments of the local people's governments at and above the county level on the strength of documents of approval. The applications shall be approved by the local people's governments at and above the country according to the terms of reference provided for by various provinces, autonomous regions and municipalities whereas the use of land involving the occupation of agricultural land, the examination and approval procedures provided for in Article 44 of this law shall be followed.
Land for construction purposes in starting enterprises provided for in the preceding paragraph shall be put under strict control. Provinces, autonomous regions and municipalities shall determine the standards for land use according to different trades and scale of operation of township enterprises.

Article 61 In using land for building public facilities and public welfare facilities, townships (towns) shall file an application with land administrative departments of local people's governments at and above the county level after being examined by the township (town) people's governments at and the application shall be approved by the local people's governments at and above the county level according to the term of reference provided for by provinces, autonomous regions and municipalities. Where occupation of agricultural land is involved, the examination and approval procedures provided for in Article 44 of this law are required.

Article 62 One rural household can own one piece of land for building house, with the area not exceeding the standards provided for by provinces, autonomous regions and municipalities. Construction of rural houses should conform to the general plans for the utilization of land of townships (towns) and the original land occupied by houses and open spaces of villages should be used as much as possible for building houses. The use of land for building houses should be examined by the township (town) people's governments and approved by the county people's governments. Whereas occupation of agricultural land is involved the examination and approval procedure provided for in Article 44 of this law is required.
The application for housing land after selling or leasing houses shall not be approved.

Article 63 The land use right of peasant collectives shall not be leased, transferred or rented for non-agricultural construction, except in the case of legal transfer of the land that conforms to the general plan for the utilization of land and legally obtained by enterprises due to bankruptcy or acquisition.

Article 64 Buildings or structures put up before the general plan for the utilization of land and uncomfortable to the general plans are not allowed to be rebuilt or expanded.

Article 65 In one of the following cases, the rural collective economic organizations may recover the land use right with the approval of the people's government that gives the approval for the use of land:

1. Land needed for building public facilities and public welfare undertakings of townships (towns) and villages;

2. Land not used according to the purposes approved;

3. Land not used any more due to cancellation or removal of the original units.
Proper compensation shall be given to land users in the case of recovering the land owned by peasant collectives provided for in item 1 of the preceding paragraph.

CHAPTER SIX SUPERVISION AND EXAMINATION

Article 66 Land administrative departments of the people's governments at and above the county level shall exercise supervision and examination on violations to the land administrative law and administrative decrees. Supervising personnel in such a regard should be well acknowledged with the land administrative law and decrees, loyal to their duties and justice in enforcement of the law.

Article 67 In performing their supervising and examination duties, the land administrative departments of the people's governments at and above the county level have the right to adopt the following measures:

1. Demand for documents and materials concerning land use rights from units or individuals for examination, review or copying;

2. Demand explanations from units or individuals concerned in regard to land use rights;

3. Enter into land illegally occupied by units or individuals under examination to carry out on-the-spot surveys, and

4. Command units or individuals that have occupied land illegally to stop their acts of violating the land administrative law and decrees.

Article 68 In performing their duties, whereas there is the need to carry out on-the-spot survey or demand units or individuals concerned to produce documents and materials or explanations, supervising personnel should present certificates of land supervision and examination.

Article 69 Units or individuals concerned should provide active support and cooperation to land administrative departments of the people's governments at and above the county level in their supervision and examination of violations to land administration and provide all the conveniences to facilitate but not in any way refuse or obstruct their work in such a regard.

Article 70 Whereas land administrative departments of the people's governments at and above the county level have found government functionaries to have committed violations during their supervision and examination, they shall give them administrative punishments whereas the punishments are due. Whereas they do not have the right to handle the cases, they should put forward proposals for administrative punishments to the administrative oversight organs at the same level or at a higher level. The related administrative oversight departments shall mete out punishments according to law.

Article 71 Whereas the land administrative developments of the people's governments at and above the county level have found violations to have constitute a crime in their supervision and examination, they shall hand over the case to related government organs to affix criminal responsibilities. Whereas the case cannot constitute a crime, administrative punishments shall be meted out.

Article 72 Whereas related land administrative departments have failed to give administrative punishments due, the land administrative departments of the people's governments at a higher level have the right to command the land administrative departments to take punishment decisions or give administrative punishments directly and give administrative punishments to the person responsible of the related land administrative departments.

CHAPTER SEVEN LEGAL RESPONSIBILITIES

Article 73 For illegal transfer of land through trade or other forms, land administrative departments of the people's governments at and above the county level shall confiscate the proceeds from the transfer. For converting agricultural land into land for construction uses in violations to the provisions of the general plans for the utilization of land, an order shall be given to dismantle the new buildings or other facilities illegally built on the land illegally transferred for restoration of the land to the original state, and whereas in such cases no violation to the general plan for the utilization of land, the new building and other facilities on the land illegally transferred shall be confiscated and a fine may be imposed. Administrative punishments shall be given to persons in charge and persons directly responsible and whereas the case constitutes a crime, criminal responsibilities shall be affixed.

Article 74 Occupying cultivated land to build kilns or graves or build houses, dig land, collect stones, do mining or collect soil from the cultivated land without authorization, thus damaging the conditions for growing crops or causing desertification and salinization due to land development in violation of this law, the land administrative departments of the people's governments at and above the county level shall order correction or improvement within a prescribed time limit and concurrently impose a fine. Whereas the case constitute a crime, criminal responsibility shall be affixed.

Article 75 Refusing to perform land reclamation obligations in violation of this law, the land administrative departments of the people's governments at and above the county level shall order correction within a prescribed time limit. Whereas no correction is made within the time limit, a payment of land reclamation fees specially used for land reclamation by the violator shall be ordered and a fine may be concurrently imposed.

Article 76 Occupying land without approval or by deception, the land administrative departments of the people's governments at and above the county level shall order to return the land illegally occupied; turning to agricultural land into land for construction uses without authorization in violation of the general plans for the utilization of land, dismantling of the new buildings and other structures on the land illegally occupied within a prescribed time limit shall be ordered and whereas the act has not violated the general plans for the utilization of land, the new buildings and structure concerned shall be confiscated and a fine may be imposed concurrently. Persons in charge of the unit that occupies land illegally and the people directly responsible shall be given administrative punishments and whereas the case constitutes a crime, criminal responsibility shall be affixed. For an occupation of land in excess of the approved amount, part in excess shall be regarded as land illegally occupied.

Article 77 Occupying land for rural villagers for building houses without approval or by deception shall be ordered a return of the land illegally occupied and dismantle the new houses built on the land illegally occupied by land administrative departments of the people's governments at and above the county level. For occupation of land in excess of the standards prescribed by the provinces, autonomous regions and municipalities, the land in excess of the standards shall be regarded as having been illegally occupied.

Article 78 Approving the occupation of land without the power of approval, beyond the term of reference, or not according to the purposes defined in the general plans for the utilization of land or approving the occupation or expropriating of land in violation of the legal procedures, the documents of approval shall be invalid and the persons in charge and personnel directly responsible for illegal expropriation or use of land shall be given administrative punishments. Whereas the case constitutes a crime, criminal responsibilities shall be affixed. The land illegally approved and used shall be recovered. Whereas parties concerned refuse to return, the case shall be regarded as illegal occupation of land. Whereas illegal expropriation and use of land have caused damages to parties concerned, the party responsible shall bear the responsibilities of compensation according to law.

Article 79 Embezzling or diverting the use of land compensation fees and other related expenses of the units whose land is expropriated, criminal responsibilities shall be affixed; whereas the case constitutes the crime and administrative punishments shall be meted out whereas the case is not serious enough to constitute a crime.

Article 80 A refusal to return of land use right upon a legal recovering of the land or an expiration of temporary land use term or State-owned land to social organizations by the purposes approved, the land administrative departments of the people's governments at and above the county level shall order the return of the land and impose a fine.

Article 81 Leasing, transferring or renting the use right of land owned by peasant collectives for non-agricultural construction uses, the land administrative departments of the people's governments at and above the county level shall order correction within a prescribed time limit, confiscate the proceeds concerned and impose a fine.

Article 82 Refusing to go through the land alteration registration according to the provisions of this law, the land administrative departments of the people's governments at and above the county level shall order the parties concerned to go through the procedure within a prescribed time limit.

Article 83 Whereas orders have been issued to dismantle the new buildings and other facilities on the land illegally occupied within a prescribed time limit according to the provisions of this law, the construction unit or individual shall stop operation immediately and dismantle them by themselves. Whereas the operation continues, the organ which decided for the punishment decisions has the right to stop it. Whereas a construction unit or individual refuse to accept the administrative punishment decisions on dismantling the organs making the punishment, it may bring the case before the people's court within 15 days starting from the day when the decision is received. Whereas a unit or individual fails to put the case in proceeding when the time limit expires and yet refuses to do the dismantling, the organ making the punishment decision shall apply for compulsory exercise with the people's court and the cost arising therefrom shall be borne by the law violator.

Article 84 Dereliction of duty, abuse of power for personal gains and practice favouritism by personnel of the land administrative departments shall be affixed of criminal punishments according to criminal law whereas the case is serious enough to constitute a crime or imposed of administrative punishments whereas the case is not serious enough to constitute a crime.

CHAPTER EIGHT SUPPLEMENTARY PROVISIONS

Article 85 This law applies to the use of land by Sino-foreign joint equity and cooperative ventures, and wholly foreign-owned enterprises. Whereas there are separate provisions by law, those provisions shall prevail.

Article 86 The law shall come into force starting from January 1, 1999.
Appendix: Related articles in the Criminal Law:

Article 228 Illegal transfer or trade of land use right for personal gains in violation of the land administrative law and regulations shall be sentenced to a prison term of less than three years or to forced labor, with a concurrent fine amounting to more than 5% and less than 20% of the proceeds from the illegal transfer or trading whereas the case is serious enough, and whereas the case is very serious, it shall be sentenced to a prison term ranging from more than three years to less than seven years, with a fine ranging from more than 5% to less than 20% of the proceeds from the illegal transfer or trading of the land use right.

Article 342 Illegal turning of cultivated land occupied into other uses is a big amount to cause damages to large tracts of cultivated land in violation of the land administrative law and regulations, a punishment of from less than five years' in prison or forced labor shall be given, together with a fine concurrently or separately.

Article 410 Whereas government functionaries are found to have committed deception or forgery for personal gains in violation of the land administrative law and regulations or have abused their power to illegally approve the requisition of land or under-sell the use right of State-owned land and the cases are serious, a punishment of less than three years in prison or forced labor shall be given; whereas the cases have caused very big losses to the State or organs making the punishment decision, a punishment of from three years to less than seven years shall be meted out.

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