

**KINGDOM OF CAMBODIA**  
**Nation Religion King**

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MINISTRY OF ECONOMY AND FINANCE  
No: 548 MEF

Phnom Penh, Dated: July 30<sup>th</sup>, 2008

**Prakas**  
**on**

**Housing Development**  
**(Supervise, Control and License)**

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**Senior Minister, Ministry of Economy and Finance**

- Referring to the constitution of the Kingdom of Cambodia
- Referring to Preah Reachkreat No NS/RKT0704/124 dated July 15, 2004 on formation of Royal Government of the Kingdom of Cambodia.
- Referring to Preah Reachkram No 02/NS/94 dated July 20, 1994 on promulgation of the law on organization and Functions of the Council of Ministers
- Referring to Preah Reachkram No NS/RKM/0196/18 dated Janaury 24, 1996 promulgation of the law on establishment of the Ministry of Economy and Finance.
- Referring to Sub Decree No 04 ANKr/BK dated January 20, 2000 on organizing and Functioning of the Ministry of Economic and Finance.
- Referring to Preah Reachkram No NS/RKM/1206/035 dated December 29, 2006 promulgation of the Law on Financial Management 2007
- Referring to Sub Decree No 78 ANKr/BK dated November 18, 2000 on Adjustment of the Department of the Ministry of Economy and Finance.
- Referring to the approval signature of the Samdech Aka Moha Sena Padei Decho HUN SEN Prime Minister of Kingdom of Cambodia dated October 17, 2007.
- Referring to Prakas No 584 SHV.PRK dated September 19, 2005 on Adjustment of the conduct of the Financial Industry Department
- Referring to Prakas No 216 SHV.PRK dated Mach 19, 2008 on establishment of inter-Ministry working group for housing development.
- Referring to the needs of the Ministry of Economy and Finance

# HEREBY DECIDES

## PART I

### GENERAL PROVISION

#### Article 1: Purpose

The purpose of this Prakas is aims to establish the mechanism of supervise, control and licensing to housing developer that is doing business or willing to do these business and establish the measurement to ensure the housing development in Cambodia.

#### Article 2: Objective

The Objective of this Prakas is:

- To improve and straighten the housing developers that is doing business as a housing development in Cambodia.
- To enhance the housing development with the confidence and acceptable in the way of housing development project, financial project management, housing development account supervision and audition of the sale and purchase agreement.
- To build customer's confidence on the investment of housing development
- To ensure the sustainable economic growth and to have a housing development with a national and international standard.
- To avoid the housing development that are not proper and legally
- To mobilize national income by taxation and other services.

#### Article 3: Definition

- **"Ministry"** means Ministry of Economy and Finance.
- **"Advertisement"** means any notification or intimation of housing development by:
  - a) published in any newspaper, journal or magazine, or in the form of a brochure or in any other form or
  - b) displayed on any hoarding, boarding, roof, wall, pilling, fence, frame, signboard, plate, cloth, bar, pillar, post, wire-casting or other erection, structure or contrivance, or
  - c) conveyed by means of films or communications or
  - d) conveyed by other means oral or written and whether of the same kind or not as set out in paragraphs (a) to (c)
- **Appropriate Authorities:** means any authority for the time being authorized to approval housing development plan for the legally construction and includes any company licensed to provide electricity, telephone, and other related services;
- **"Real Estate"** means land at, above and below the earth's surface, including all things permanently attached to it, whether natural or artificial.
- **"Housing Developer"** means any person, company, who or which engages in or carries on or undertake s a housing development
- **"Housing Development"** means to develop or construct or cause to be constructed in any manner starting from 4 flats houses or 3 Villas or 4 units

up (for Condominium and Apartment) in purpose for sale or rent by the said landowner or his nominee for development.

- **“Housing Development Account”** means an account opened and maintained by a licensed housing developer at any commercial bank in Kingdom of Cambodia.
- **“License”** means License granted under article 5 of this Prakas.
- **“Working Group”** means inter-ministry working group which is appointed or authorized to supervise the housing development business under Ministry of Economy and Finance,
- **“Customers”** means any person who has any dealing with a housing developer in respect of the acquisition of housing developer.
- **“Surplus money”** means excess money in the housing development account after deducting for some expends.

## **PART II**

### **SECTION I**

#### **CONTROL AND LICENSE**

##### **Article 4: Application for License**

Without License from the Ministry, all housing developers can not do a housing development.

For housing development, all housing developers have to fulfill an application for License's form which is prepared by Working Group at working group's secretariat within the Real Estate Trading Management Division, Financial Industry Department, Ministry of Economy and Finance. An applicant for a license has to attach all related documents to the secretariat as the following:

- Memorandum and Certificate are registered in Ministry of Commerce
  - Criminal Record for Director from Ministry of Justice (Cambodian)
  - Criminal Record for Director from Home Land (Foreigner)
  - Copy Cambodian ID Card ( Cambodian) or Passport and entry Visa (Foreigner)
  - Approval letter from government in regard to housing development permission.
  - Construction's License from Ministry of Land Management Urban Planning and Construction
  - Detail Construction Plan for housing development
  - Housing Development Account number, which is housing developer, has opened in any Licensed Commercial Bank for the purpose of housing development.
  - Deposit amount of money as described in article 17
  - To be paid of License fees as described in article 6
  - Insurance's Certificate from any Local licensed Insurance Company on compulsory insurance of construction site
- Any other significant documents that required by the inter-ministry working group.

Any misleading statement, false representation or description or the particular or information required under article (4) of this Prakas shall be an offence under these Prakas.

The Working Group may, in his discretion grant license with or without attaching any conditions or conditions thereto or refuse to grant a license, if applicant didn't complete in which of any conditions.

A License shall be required in respect of each housing development and where a housing development is to be developed in phase, a licence shall be required for each phase of such housing development.

#### **Article 5: Type of License**

A License shall be granted by according to type or size of housing development

A License issued under this Prakas shall be in the form prepared by Working Group.

#### **Article 6: License fees and its Validity**

Licence fees and its expiration are limited based on type and size development as the following:

##### **A/ Flat.**

Size	License Fees (Riel)	Valid
From 04-10 of flats	1,500,000	02 Years
From 11-50 of flats	3,000,000	03 Years
From 51-100 of flats	5,000,000	04 Years
Over 101 of flats	8,000,000	05 Years

##### **B/ Villa**

Size	License Fees (Riel)	Valid
From 03-10 of Villas	3,000,000	03 Years
From 11-50 of Villas	6,000,000	04 Years
Over 51 of Villas	11,000,000	05 Years

### C/ Apartment and Condominium

Size	License Fees (Riel)	Valid
From 04 -10 units	1,500,000	02 Years
From 11 -50 units	3,000,000	03 Years
From 51 -100 units	5,000,000	03 Years
From 101 -200 units	8,000,000	04 Years
From 201 -400 units	10,000,000	05 Years
Over 400 units	12,000,000	05 Years

#### Article 7: Renewal of a housing developer's license

All Licenses have validity as described in article 6 start from signature dated. All housing developers have to apply for renewal licence within 60 days before the date of license expired.

The Working Group may, in his discretion grant renewal license with or without attaching any conditions or conditions thereto or refuse to grant a renewal license, if applicant didn't complete in which of any conditions.

Applicant for renewal licence must be fulfill an application form as prepared by Working Group with attached all related documents as described in article 4 of this Prakas and give particular of any change to the company.

Any misrepresentation of the particular or information required under this Prakas shall be an offence as described in article 27 of this Prakas.

#### Article 8: Revoke or Suspend of Licenses

The Working Group has the right to revoke or suspend of License whenever, the housing developers have misrepresentation or wrong-practicing as the following:

- Commence the construction building failure within 3 months after granted license dated.
- Missed conduct to the meaning of this Prakas or any other circular or notice letters that issued by Working Group in each of stage
- Licensee remain to break the provision of this Prakas, whenever got the official warning letter and have punishment from the Working Group
- Failure of keeping accounting record
- Failure of applying for housing development's Patent and any tax payment in according to tax law by statement letter from tax department after granted license within 3 months.
- Bankruptcy of housing developer or guilty in doing business
- Advertisement without permit or advertisement different to the meaning that have permitted by Working Group

- Deeply different of trimester reports and finished project report or yearly report that submitted to Working Group in each of stage
- Involved with criminal act or money laundering or any illegal act, with sufficiency proof that found by the authorities.

**Article 9: Advertisement and Sale Permit**

A/ Any advertisements or sale permit shall be made by any licensed housing developer unless:

- Housing development have been processing at least 3% of total project or progress project of any each of stage
- Having checked and permitted from the Working Group
- Housing developer is the landowner
- Landowner has agreed to sale the land in purpose of housing development or landowner has agreed as described in article 13 of this Prakas.

B/ An applicant for an advertisement and sale permit shall submit this application form issued by Working Group and shall supply the following:

- a copy of the approval building plans
- a copy of proposed advertisement including the brochure containing particulars as prescribed in article 10 of this Prakas.
- such other relevant particular or information as may be required by the Working Group.

C/ Any misleading statement, false representation or description of the particulars or information shall be offence as in article 27 of this Prakas.

D/ The Working Group, in his discretion, grant an advertisement and sale permit with or without attaching any conditions thereto or refuse to grant permit. An advertisement and sale permit issued under this Prakas shall be in the form as prepared by Working Group.

E/ An advertisement and sale permit shall be required in respect of each housing development and any advertisement in relation to the same development, which is differs from that for which is permit was first granted, may be made but subject to such variation being submitted for the prior approval of the Working Group.

F/ The fee payable for an advertisement and sale permit and its validity as the following:

**A-: Flat**

Size	Advertisement Fee (Riel)	Valid
From 04-10 of flats	8,000,000	02 Years
From 11-50 of flats	1,600,000	03 Years
From 51-100 of flats	2,800,000	04 Years
Over 101 of flats	4,000,000	05 Years

**B: Villa**

Size	Advertisement Fee (Riel)	Valid
From 03-10 of Villas	1,500,000	03 Years
From 11-50 of Villas	3,000,000	04 Years
Over 51 of Villas	5,000,000	05 Years

**C: Apartment and Condominium**

Size	Advertisement Fee (Riel)	Valid
From 04 -10 units	800,000	02 Years
From 11 -50 units	1,600,000	03 Years
From 51 -100 units	2,500,000	03 Years
From 101 -200 units	4,000,000	04 Years
From 201 -400 units	5,000,000	05 Years
Over 400 units	6,000,000	05 Years

**Article 10: Particulars to be include in advertisement**

Any advertisement made by any licensed housing developer shall be including the following particular:

- (a) The housing developer's license number and validity dated
- (b) The advertisement and sale permit number and validity date permitted by working group.
- (c) the name and address of the licensed housing developer and his authorized agent, power of attorney holder of project management company if any, as approved by working group.
- (d) the tenure of the land, if the land is leasehold, its expiry date and encumbrances, if any, to which the land is subject.
- (e) description of the proposed housing accommodation
- (f) the name of housing development
- (g) the expected date of completion of the proposed of housing development
- (h) the selling price of each type of housing accommodation
- (i) the number of units of each type available, and
- (j) the name of appropriate authority approving the building plans and reference number.

A licensed housing developer shall issue a brochure in respect of the housing accommodation to each purchaser free of charge.

**Article 11: Advertisement shall not contain certain description**

The Working Group is forbid of all any advertisements even in the form of picture or writing that related to:

- (a) King or any member of his family
- (b) head of government member, Governors of city and provinces and all rank of government officer
- (c) All any other information related to:
  - Member of senate and national assembly
  - Any public building and public place
  - any connection with the Government of any foreign country or with the United Nation and so on,

**Article 12: Renewal of advertisement and sale permit**

An application for the renewal of an advertisement and sale permit shall be made not later than sixty (60) days before the date of expiry in the form as prepared by the Working Group and shall provide:

- (a) a copy of particulars of the housing development
- (b) a copy of the proposed advertisement; and
- (c) any other relevant particulars or information as may be required by the Working Group

The Working Group may, in his discretion, approve the renewal of an advertisement and sale permit with or without attaching any conditions or conditions thereto or refuse to grant a renewal of such permit.

The fee for the renewal of an advertisement and sale permit as described in article 9 of this Prakas.

**Article 13: Proprietor to be a party to a contract of sale**

No licensed housing developer who is not the proprietor of the land upon which a housing development is carried out shall enter into any contract of sale of any housing accommodation in that housing development unless the proprietor of the land is also a party to such contract of sale and agrees to the sale of the land for the purposes specified in such contract of sale.

**Article 14: Contract of purchase and sale**

Every contract of sale for sale and purchase of housing accommodation together with the sub-divisional portion of land appurtenant and subdivided building, it shall be in the form as prepared by Working Group.

**Article 15: Appeal**

Within fourteen (14) days after having been notified of the decision of the Working Group, appeal against such decision to the Minister, Ministry of Economy and Finance should be made.



## SECTION 2

### HOUSING DEVELOPMENT ACCOUNT

#### **Section 16: Duty of Developer related to the account**

(1) A licensed housing developer shall within fourteen (14) days after getting the licence for housing development from the Ministry of Land Management Urban Planning and Construction , submit to the Working Group a certificate from the bank or finance company with whom the Housing Development Account is opened, certifying that such an account has in fact been opened.

(2) Developer shall, within fourteen (14) days after being notified by a purchaser of the name and address of his financier who is financing the purchase, inform the purchaser's financier of the name and address of the bank in which the Housing Development Account is opened and its account number.

#### **Article 17: Deposit made by the Developer**

Before processing the housing development project, housing developer have to deposit 2% of total investment cost of the whole project or of some part of the project to be developed into the Ministry's account opened at National Bank Cambodia.

The deposit can not withdraw unless the project has been completed or to solve the solvency as the statement from the Working Group.

#### **Article 18: Deposit of all monies paid by purchase**

All money, whatsoever, whether in respect of deposit or installments of purchase price or otherwise, paid by a purchaser in relation to his purchase of housing accommodation in a housing development, directly to Housing Development Account as determined in the sale and purchase contract.

#### **Article 19: Purchase's financier to pay direct into account**

A purchaser's financier shall, within seven (7) days of working day after receiving invoice sent by the licensed housing developer in respect of the progressive payments relate to the purchase of housing accommodation by the purchaser, deposit directly any payment made into the Housing Development Account with a statement to the licensed housing developer and the purchaser that such payment have been made.

#### **Article 20: Deposit of Loans**

A licensed housing developer shall deposit into the Housing Development Account any loan obtained for the construction of housing accommodation in a housing development.

### **Article 21: Interest obtained**

Any interest obtained in respect of matter referred to Article 17 shall be deposit into the Ministry's account for Working Group uses in order to achieve the housing development supervision.

### **Article 22: Purposes for which monies in Housing Development Account may be withdraw**

No money in a Housing Development Account of a housing development shall be withdrawn by a licensed housing developer except for all or any of the following purposes:

- (a) payment of all outgoings including, stamp duty tax, taxes, assessments and other charges levied in respect of the land on which housing development is carried out.
- (b) payment of housing rental, interest and such other charges to the banks or finance companies on any loan taken for the housing development
- (c) the payment of any capital sum to redeem, in full or in part, the loan for the purchase of land for housing development in proportion to the housing accommodation that have been sold.
- (d) payment of the cost of land where no loan is taken for the purchase of land for the housing development, to be made as follows:
  - amount equal to ten per centum (10%) of the purchase price pursuant to the sale and purchase agreement in respect of a housing accommodation in the housing development where up to fifty-five per centum (55%) of purchase price has been paid
  - a further amount equal to the amount 10% where up to sixty five per centum 65%. of purchase price has been paid. Provided that payment of such amount shall be in proportion to the housing accommodation that have been sold.
- (e) any refund of the progress payment pursuant to the sale and purchase agreement of a housing accommodation in the housing development.
- (f) the payment of legal fees in respect of..
  - memorandum of deposit of title to secure any loan for the construction of the housing development
  - any other matters relating to housing development
- (g) insurance Premiums (deposit of insurance), architect's fees, engineer's fees and consultant's fees for the housing development
- (h) The cost of carrying out:
  - soil investigations
  - earthworks
  - foundation works
  - building works
  - external works
  - site and boundary survey for each lot
  - infrastructure works
  - relocation squatter
  - other significant works related to housing development as determined in licence conditions that provided by Working Group.

- (i) payment toward for the supply of water, electricity to the housing development areas
- (j) the payment of any lawful charge to any related authorities in respect of housing development
- (k) deposit insurance to secure the loan for housing development
- (l) any administration expenses (including marketing and advertisement expenses) incurred on the housing development, subject to a maximum of ten per centum (10%) of the project cost of construction of the housing development as certified by the architect or engineer in charge of the housing development in respect of relevant progressive payment
- (m) the payment incurred by Working Group's inspection,
- (n) the payment of liquidated damages pursuant to the housing development
- (o) commissions for real estate broker services maximum 5%
- (p) any other expenses reasonably incurred in relation to the housing development but such amount shall only be released by prior approval in writing of Working Group and also in respect of the law on banking and finance institution, that the housing developer opened account.

**Article 23: Conditions of withdrawal of money from Housing Development Account**

A/ The withdrawal of money from the Housing Development Account of a housing development by licensed housing developer shall be made in the following manner:

- Having supported certificate from the architect or engineer or quantity surveyor, as the case maybe, in charge of the housing development stating that the payment is due to be made for the proportion of the housing developer have been done
- certified signature by the director of housing development
- has agreed from proprietor/ partner of housing development
- withdrawal of money in respect of purpose in article 22 of this Prakas
- a copy of the notice claim shall be submitted concurrently to the Working Group
- has approval from the Working Group

B/ Withdrawal of surplus monies from Housing Development Account:

- After the issuance of a certificate of fitness for the housing development, from the Ministry of Land Management, Urban, Planning and Construction, the housing developer may withdraw any surplus monies in the Housing Development Account after deduct...
- the amount required to complete the housing development and the sale and purchase under all the sale and purchase agreements in respect of the housing development as certified by architect or engineer, quantity surveyor, as the case maybe in charge of housing development
- ten per centum (10%) of the amount referred to above description for contingencies and inflation
- all claims on liquidate damages that have been settled, and
- has approval from the Working Group

C/ Withdrawal of all monies in Housing Development Account:

- the housing development have been completed

- the solicitor for the licensed housing developer has certified that the obligation of the licensed housing developer in respect of transfer of title under all sale and purchase agreement in that housing development have been fulfilled, and
- has approval from the Working Group

**Article 24: Right of the Working Group**

- (1) In any time, the chairman of the Working Group, may nominate the member of the Working Group to do on site inspection on related documents to the housing development, and the housing developer have to facilitate to the members of Working Group in respect of provide requested documents.
- (2) In particular case, the chairmen of the Working Group has the right to hire an accounting and auditing expert to joint the inspection, the inspectors has the right to in request for the copy involved documents, and all expenses shall be born by the licensed housing developer.
- (3) When the Working Group is satisfied that the development of a housing development is detrimental to the interest of the purchasers, the Working Group may use the monies in the Housing development Account of the development to ensure the completion of the development

**Article 25: Trimester Reports**

A licensed housing developer shall within fifteen (15) days after end of trimester, make trimester report on housing development and finance reports to the Working Group and shall state in every such report as truly and correctly.

The report, in respect of the withdrawal of money from the Housing Development Account, has to notify that every withdrawal of money have been done in accordance with these Prakas.

**Article 26: Completed reports or Annual reports**

Every licensed housing developer shall, within 3 months after completed of the housing development project or end of each year of such developer, make a housing development report or annual financial report or the last fiscal year report to the Working Group with the endorsement from the independent auditor which is recognized by the Ministry.

**Article 27: Administration Penalties**

Any licensed housing developer who contravenes any provision or conditions under these Prakas shall be guilty of an offence such as suspend licence, or revoke licence or suspend the building construction or/and shall be fine accordance to the law of the Kingdom of Cambodia.

In case of necessary, the Working Group has the rights to appeals to the court for the enforcement of the above penalty in appropriate laws.

### **PART III**

#### **TRANSITORY PROVISION**

##### **Article 28:**

(1) Notwithstanding the provisions of these Prakas any housing developer, who before the coming into force of these Prakas was carrying on the business of housing development, may continue to carry on such business for such period. However, after this Prakas is promulgated, all processing a housing developers have to obtain a license housing developer from the Working Group and have to respect the conditions as specified in these Prakas.

(2) Nothing in these Prakas shall affect the use of the sale and purchase agreement or advertisement and sale permit issued prior to the coming into force these Prakas.

(3) For any housing developers, who did not pay tax in the period of time or miss payment a fiscal taxation must be solving with tax department. Only the completed tax payment's housing developer can get the licence for housing development from the Working Group.

### **PART IV**

#### **REPEAL**

##### **Article 29:**

All different provision to these Prakas is hereby repealed.

##### **Article 30:**

Secretary General, Chief of Cabinet, Director of Financial Industry Department, Director of Tax Department, Excellency of the government delegation as in charge of Director of National Treasury, Director of Administration and Finance Department and all departments, units, companies, and all any person under the jurisdiction of these Prakas shall respectively and effectively implement from the date of its signature.

**Senior Minister, Ministry of Economic & Finance**

##### **Send to:**

- Secretariat of Senate
- Secretariat of National Assembly
- Cabinet of Samdech Akak Moha Sena Pakei Decho  
HUN SEN Prime Minister of Cambodia
- Council Minister
- “To be known”
- As stated in article 30
- “For implementation”
- Documentary

[Signature & Stamp]

**KEAT CHHON**