

Department of Lands Tightens Enforcement Against Nominee Land Ownership in Thailand



I. Introduction

Thailand's Department of Lands has recently announced stricter measures to prevent foreigners from using Thai nominee structures to circumvent restrictions on foreign land ownership. The new measures follow the Department of Business Development's (the "DBD") broader crackdown on nominee businesses and reflect increasing coordination among Thai authorities in enforcing the Foreign Business Act B.E. 2542 (1999) (the "FBA") and the Land Code Act B.E. 2497 (1954), as amended (the "Land Code"), particularly in relation to land ownership and restricted business activities.

II. Thai nominee restrictions

Under the Land Code, foreigners are generally prohibited from directly owning land in Thailand, except in the following circumstances:

- inheritance;
- certain promoted activities under the Board of Investments (BOI);
- treaty-based rights; and
- purchase of land for residential purposes through an investment of not less than THB 40 million, with ownership permitted for up to one rai of land for residential use.

The Land Code also extends these restrictions to Thai companies that are deemed "foreign" based on their shareholding structure or foreign control. This framework is particularly relevant to the current enforcement trend, as authorities are increasingly examining whether Thai corporate entities are being used as vehicles to conceal beneficial foreign ownership or nominee landholding arrangements.

III. Increased enforcement and enhanced due diligence

According to recent announcements by the Department of Lands, enhanced screening measures have been introduced for both pre-registration and post-registration review of land transactions involving foreign individuals and foreign-related entities.

1. Pre-registration review

Enhanced scrutiny may apply to land transactions where:

- cash payments of THB 2 million or more are involved; or
- the appraised value of the property is THB 5 million or more.

1.1 For individuals: The authorities may:

- verify the source of funds, income, occupation, and financial status of the purchasers;
- require a Thai spouse of a foreign national to confirm that funds used for the acquisition constitute personal property rather than marital property;
- scrutinize mortgages, lease agreements, or other rights granted to foreign spouses, where such arrangements may support nominee ownership structures;
- examine the land transfers involving minor children of foreign nationals where the transaction may facilitate indirect foreign ownership.

Where a nominee arrangement or an attempt to circumvent foreign ownership restrictions is suspected, the matter may be escalated to the Minister of Interior for further consideration and orders.

1.2 For companies: For companies with foreign shareholders or foreign directors, the authorities may:

- require evidence supporting the source of funds, income, and occupation of Thai shareholders;
- investigate the company's funding sources where the acquisition value of the land exceeds the company's registered capital and no mortgage financing is involved;
- review land leases and other long-term land rights, including the purpose of the arrangement and activities conducted on the land, to assess potential non-compliance with the FBA.

2. Post-registration review

The Department of Lands will continue monitoring patterns of land use and related activities after registration, particularly where there are indications that a foreign national may be the actual beneficial owner of the land.

- The authorities may review:
 - land use and business operations;
 - advertising activities; and

whether a foreign national exercises ownership or control over the land.

Where complaints or suspicious information arise, a fact-finding committee will be set up immediately to investigate the matter.

Companies may also face increased scrutiny in connection with unusual shareholding changes, capital increases, or ownership restructurings that may indicate attempts to circumvent foreign ownership restrictions.

In addition, provincial land offices are required to conduct regular reviews of companies with foreign shareholders or directors and report their findings to the Department of Lands on a quarterly basis.

IV. Potential legal consequences

Where a nominee arrangement is identified, the authorities may order the disposal of the land within a period of 180 days to one year.

The following penalties may apply under the Land Code:

- **Foreign nationals who unlawfully acquire land** may be subject to imprisonment for up to two years, a fine of up to THB 20,000, or both (Section 111).
- **Thai individuals acting as nominees** for foreign nationals in acquiring land may be subject to imprisonment for up to two years, a fine of up to THB 20,000, or both (Section 113).
- **Juristic persons that unlawfully acquire or hold land** in violation of the Land Code may be subject to a fine of up to THB 50,000 (Section 112).

V. Key takeaways for investors and businesses

The recent measures demonstrate Thailand's increased focus on identifying and addressing nominee structures used to circumvent foreign ownership restrictions. Foreign investors and Thai counterparties should review their landholding, shareholder, and corporate structures to ensure compliance with the Land Code and the Foreign Business Act.

Given the enhanced scrutiny and increased coordination among regulatory authorities, non-compliant arrangements may face regulatory investigations and potential legal consequences.

VI. Our services

Our team regularly advises foreign investors, multinational companies, and Thai businesses on foreign ownership restrictions, nominee-related risks, and compliance with the Land Code and the FBA.

We assist clients with legal due diligence, corporate structuring and restructuring, shareholder and landholding reviews, Foreign Business License (FBL) applications, and other regulatory compliance matters relating to foreign investment in Thailand.

Should you have any questions regarding the issues discussed in this article or require assistance with your business or investment structure in Thailand, please do not hesitate to contact us by email at thailand@luther-services.com or by telephone at +66 2 210 0036.

VII. Your contacts in Thailand



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