

Hire of Immovable Property for Commerce and Industry by Alien

In general, an alien may hire land in Thailand as provided by the Civil and Commercial Code and the contract of hire cannot exceed thirty years thereof. Once the contract comes to an end, it can be renewed, but it must not exceed thirty years from the date of renewal.

Later and according to the Government policy focusing on boosting industrial and commercial investment, the Hire of Immovable Property for Commerce and Industry Act B.E. 2542 was enacted and subsequently put into force on May 19th, 1999. The Act aims at providing specific rules and conditions in respect of the hire of immovable property for commercial and industrial purposes whereby an alien can choose either from hiring land not exceeding one hundred rai or more than one hundred rai. Provided that the following rules for hiring land not exceeding one hundred rai must be satisfied:

1. The duration of a hire of immovable property shall exceed thirty years but not exceed fifty years. In this instance, the letter and the hirer may make an agreement to renew the contract but it shall not exceed fifty years from the day the agreement is made;

2. The contract of hire shall be made in writing and registered by the competent official;

3. The letter shall have possession in such immovable property;

4. The right of hire can be used as suretyship for performance of obligation by mortgage;

5. The right and duties of hire are devolvable upon the heir and the hirer can sublet or transfer his right of hire to a third person unless otherwise provided by the contract of hire;

6. Immovable property to be hire registered by the competent official under this Act shall be located in either area of the followings;

6.1 the area specified by the law on Town and Country Planning as for commercial or industrial purpose,

6.2 the industrial estate zone provided by the law on Industrial Estate of Thailand,

7. A commerce or industry applied for a registration of hire shall obtain, prior to the registration, either of the following appearances;

7.1 Being a commerce with an investment cost not less than Baht twenty million;

7.2 Being an industry that is eligible to be granted a certificate of investment promotion under the law on Investment Promotion;

7.3 Being a commerce or industry which benefits the economic and social of the country as declared by the Minister of Ministry of Interior and endorsed by the cabinet.

8. The type of commerce or industry whereby an alien can apply for registration must be a commerce or industry upon which an alien can make business under the law on Business Operation of an Alien.

In the case of hiring the land more that one hundred rai, besides the satisfaction of the aforementioned rules, either of the following rules must also be met:

1. The operation of such commerce or industry shall add value to an exportation or support employment in the country;
2. Such operation shall never be operated in the Kingdom, unless otherwise inadequate;
3. Such operation shall incorporate state of the art production process or technology development;
4. Being in high benefit to the country's economic and social as declared by the minister of Ministry of Interior and endorsed by the cabinet;
5. In the case where an alien is a hirer, sub-hirer or a transferee of the right of hire, an investment in an operation of such commerce or industry shall not be less than Baht one hundred million excluding the cost of hire. Also, the total amount of money invested shall be foreign exchange brought into the Kingdom or withdrawn from the foreign currency deposit account or withdrawn from the non-resident Baht account.