

Law No. 8 of 2007

Concerning Guarantee Accounts of Real Estate Developments in the Emirate of Dubai

We, Mohammed bin Rashid Al Maktoum, the Ruler of Dubai,

After perusal of Federal Law No. 5 of 1985 in respect of Civil Transactions, as amended;

Law No. 7 of 2006 in respect of real property registration in the Emirate of Dubai; and

Law No. 3 of 2006 specifying the areas where non-UAE nationals may own real properties in Dubai,

Do hereby issue the following Law:

Chapter One Definitions and General Provisions

Article (1)

This Law shall be named "the Law Concerning Guarantee Accounts of Real Estate Developments in the Emirate of Dubai No. 8 of 2007".

Definitions

Article (2)

Unless the context requires otherwise, the following terms and expressions shall have the meanings as set out opposite each of them:

The Emirate:	The Emirate of Dubai
Department:	Lands Department
President:	The President of the Department
Director:	The General Director of the Department
Register:	The Register prepared at the Department to register Developers
Guarantee Account:	The bank account designated for a property development in which the amounts paid by buyers of units off the plan or the project financing parties will be deposited
Developer:	A natural or legal person licensed to carry on the activity of buying and selling properties for developing and that includes the master developer and sub-developer
Account Trustee:	A bank or financial institution certified by the Department for the management of the Guarantee Account
Competent Authority:	The Government authorities authorised to license the Developers
Real Estate Development:	The construction of multi-storey buildings or complexes for residential or commercial purposes.
Property	Everything that is permanently fixed in its space and cannot be shifted without destruction or alteration in appearance.
Unit:	An allocated part of the property sold by the developer to third parties.

Article (3)

The provisions of this Law shall apply to a developer who sells off-plan units in real estate development projects in the Emirate and, in consideration, receives payments from buyers or financing parties.

Article (4)

A special register to be named "Register of Developers" shall be prepared at the Department. The names of developers licensed to carry out real estate development activities in the Emirate shall be recorded in the said register. No developer may carry out the said activities unless it is registered in the said register and licensed by the Competent Authorities pursuant to the conditions issued related thereto.

Article (5)

A Developer shall not advertise in local or foreign media, or participate in local or foreign exhibitions, to promote the sale of units or properties off the plan, until having obtained a written permit from the Department. The Director shall issue the necessary decisions as required to regulate the requirements for advertising in the media and participating in exhibitions.

Chapter Two **Establishing a Guarantee Account**

Article (6)

A Developer wishing to sell units off the plan must apply to the Department to open a Guarantee Account. The application should be accompanied with the following documents:

- 1- Dubai Chamber of Commerce and Industry membership certificate;
- 2- Trade License;
- 3- Title deed of the plot to be developed;
- 4- Copy of the contract executed by the master developer and the sub-developer;
- 5- Architectural designs and layouts approved by concerned authorities and the master developer;
- 6- A financial statement certified by a certified legal accountant, containing the revenues and expenses of the project and approved by the development's consultant about sums payable to creditors of the development;
- 7- An undertaking by the sub-developer to commence the project construction after obtaining the master developer's approval to sell off plan or an undertaking from the master developer in case a sub-developer does not exist.
- 8- A sample sale contract between the Developer and a buyer.

Article (7)

The Guarantee Account shall be created under a written agreement between the Developer and the Account Trustee through which sums paid by buyers of units off the plan or paid by financing parties shall be deposited in a special account to be opened in the name of the real estate project with the Account Trustee.

The said agreement shall set out the terms for managing the account, the rights and obligations of the contracting parties and a copy of this Agreement shall be deposited at the Department.

Article (8)

The Department may record the purchase agreement entered into between the master developer and the sub-developer related to the land, or any part of it owned by the master developer, in the folio concerning such land.

Chapter Three Management of a Guarantee Account

Article (9)

1. The Guarantee Account shall be opened in the name of the project and the proceeds shall be used exclusively for the purposes of constructing the real estate project. The Developer's creditors are not allowed to attach the money deposited in the Guarantee Account.
2. If the Developer has many projects, a separate Guarantee Account must be opened for each project.

Article (10)

1. The Department shall prepare a special register named "Register of Account Trustees" to register the names of the Account Trustees.
2. The Account Trustee is required to be qualified to manage the Guarantee Account.

Article (11)

1. The Account Trustee must provide the Department with statements for the revenues and expenses of the Guarantee Account on a regular basis. The Department may request the Account Trustee at any time to provide it with the information and data it deems necessary, and the Department may appoint individuals it considers qualified to audit the statements and data.
2. If the Department finds that the Account Trustee committed any violation of the rules of this law and/or its implementation regulations, then it shall serve him written notice and grant him a period to rectify the violation.

Article (12)

The depositors or their representatives may examine their account records and request copies and the representatives of the official authorities may examine the records and obtain copies.

Article (13)

In the event a Developer mortgages a development to obtain a loan from financing establishments or companies, then these establishments and companies have to deposit the loan sum in the Guarantee Account to be disposed pursuant to the terms of this law.

Article (14):

The Account Trustee has to retain 5% of the total amount of the Guarantee Account after the Developer obtains the completion certificate and the reserved amounts shall not be paid to the Developer until one year after the units are registered in the names of buyers.

Article (15):

In the event of a force majeure which prevents completion of the real estate project, then the Account Trustee for that project, after consultation with the Department, shall take all the required actions to safeguard the depositors' rights to ensure the completion of the real estate project or the refund of the depositors' money.

Chapter 4 Penalties

Article (16)

Without prejudice to any penalties provided for in any other law, a penalty of incarceration and payment of a fine not less than 100,000 Dirhams, or either one of them, shall be imposed on anyone who:

- 1- Carries on a property development business in the Emirate without a license.
- 2- Submits false documents or makes misstatements to concerned authorities in order to obtain a license for carrying on a property development business.
- 3- Knowingly offers to sell units in bogus property developments.
- 4- Embezzles, uses or squanders payments delivered to him for the purposes of construction of property developments, and misappropriates such payments.
- 5- Any auditor who deliberately prepares a false report about the results of an audit he conducts on a developer's financial position, or intentionally conceals significant facts from his report.
- 6- Any consultant who knowingly approves false documents about a property development.
- 7- Any Developer who deals with a broker who is not registered in the Broker's Register at the Department pursuant to by-law No. 85 of 2006 regarding the Real Estate Broker's Register in the Emirate of Dubai.

Article (17):

A Developer shall be cancelled from the Register in any of the following events:

- a. If he declares bankruptcy.
- b. If he does not commence construction within six months of the date he was granted approval to sell off plan without an acceptable excuse.
- c. If his license is cancelled by the licensing authorities.
- d. If he violates any of numbers (2) or (3) or (4) or (5) of article 16 of this law.
- e. If he is in violation of any of the laws and/or by laws regulating the real estate development activity.

Chapter Five Final Provisions

Article (18):

Existing Developers at the time this law becomes effective should adjust their status in accordance with the provisions herein within six months of the date of publication in the official gazette, and the Department may extend this period to any other period which it considers suitable.

Article (19):

The Department may collect fees against the services offered in accordance with this law.

Article (20):

Any article in any law or bylaw is cancelled to the extent it contradicts the terms of this law.

Article (21):

The President shall issue the necessary decisions to implement the terms of this law.

Article (22):

This law shall be published in the official gazette and shall be effective from the date of publication.

Mohammad Bin Rashid
Issued in Dubai 6 May 2007.
19 Rabi'11 1428 H.