

On Participatory Interest in Housing Construction

Invalidated Unofficial translation

The Law of the Republic of Kazakhstan dated 7 July 2006 № 180. Repealed by the Law of RK from 07.04.2016 № 486-V.

Unofficial translation

Footnote. Repealed by the Law of RK from 07.04.2016 № 486-V (enacted six months after the date of its first official publication).

This Law regulates public relations linked with activity on organization of construction of residential buildings on account of attracting money of individuals and legal entities for participatory interest in their construction, as well as establishes the guarantees of protection of rights and legal interests of parties of a contract on participatory interest in housing construction.

Footnote. The Preamble as amended by the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009).

Article 1. Basic definitions used in this Law

The following basic definitions shall be used in this Law:

- 1) bank-agent – a second tier bank that accepts a deposit of an interest holder;
- 2) project company – a legal entity more than fifty percent of charter capital of which is formed by a tenant builder, carrying out licensable activity on organization of construction of residential buildings on account of attracting money of interest holders;
- 3) guarantee term – time during which a tenant builder shall guarantee preservation of a quality of indices of an object of construction stated in design (design and estimate) documentation, and possibility of operation of the object of construction (residential building) in accordance with a contract on participatory interest in housing construction;
- 4) a tenant builder – a legal entity carrying out the activity on organizing participatory construction of residential buildings in land fields belonging to him (her) on the basis of the right of ownership or on the basis of the right of land use provided by a local executive body by establishment of a project company for construction of each residential building on account of attracting money of interest holders;
- 5) zero circle – a set of construction assembly works on construction of the parts of a residential house, located below the conditional project reference mark designated as zero;

6) permission for putting in operation – signed act of the state acceptance commission on acceptance of a residential house;

7) share in a residential house (residential building) – residential and (or) non-residential premises included into the composition of a residential house (residential building) built in accordance with the construction project under a contract on participatory interest in housing construction, transferred to an interest holder under the transfer act. Upon occurrence of the right of private ownership to such residential and (or) non-residential premises, the right of joint shared property to common property in the residential building shall be created at the same time;

8) participatory interest in housing construction – relations of parties upon which one party is obliged to build a residential building and transfer a share to another party in the form of residential premise based on results;

9) authorized body in the scope of participatory interest in housing construction (hereinafter – authorized body) – the state body carrying out management in the scope of participatory interest in housing construction;

10) contract on participatory interest in housing construction – the contract concluded between a tenant builder, project company, interest holder and bank agent regulating legal relations linked with construction of residential buildings on account of attracting money of the interest holders;

11) residential house (residential building) under a contract on participatory interest in housing construction (hereinafter – residential building) – a structure mainly consisting of residential premises, as well as non-residential premises and other parts being common property;

12) *is excluded by the Law of the Republic of Kazakhstan dated 25.03.2011 No. 421-IV (shall be enforced upon expiry of ten calendar days after its first official publication);*

13) an interest holder – an individual (with the exception of temporary staying foreign persons) or a legal entity that takes participation in construction of residential buildings by contribution of money on current account (deposit of the interest holder) to the bank agent intended for the further transfer of project company;

14) deposit of an interest holder – money contributed by an interest holder on a current account to bank agent on conditions of a bank account contract on the basis of a contract on participatory interest in housing construction.

Footnote. Article 1 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009); as amended by the Law of the Republic of Kazakhstan dated 25.03.2011 No. 421-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 15.07.2011 No. 461-IV (shall be enforced from 30.01.2012); by the Constitutional Law of the

Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 2. Legislation of the Republic of Kazakhstan on participatory interest in housing construction

1. The legislation of the Republic of Kazakhstan on participatory interest in housing construction is based on the Constitution of the Republic of Kazakhstan and consists of rules of the Civil Code, this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. The legislation of the Republic of Kazakhstan on housing relations, as well as regulating architectural, urban planning and construction activity shall apply to relations of participatory interest in housing construction in a part not regulated by this Law.

3. This Law shall apply to all the relations falling within participatory interest in housing construction, with the exception of:

1) state procurements made by companies with the state participation on purchasing one hundred percent of housing;

2) when one hundred percent financing are carried out by second tier banks on the basis of opened credit line;

3) when legal entities the controlling block of stocks (participatory interests in charter capital) of which is belonged to the state, take participation in investment in housing construction or organization of construction.

4. If international treaty ratified by the Republic of Kazakhstan establishes other rules than those contained in this Law, the rules of international treaty shall be applied.

Footnote. Article 2 as amended by the Constitutional Law of the Republic of Kazakhstan dated 03.07.2013 No. 121-V (shall be enforced upon expiry of ten calendar days after its first official publication); by the Law of the Republic of Kazakhstan dated 29.12.2014 No. 270-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Article 3. Competence of the Government of the Republic of Kazakhstan in the scope of participatory interest in housing construction

Competence of the Government of the Republic of Kazakhstan in the scope of participatory interest in housing construction shall include:

1) development of main directions of the state policy in the scope of participatory interest in housing construction;

2) determination of the authorized body in the scope of participatory interest in housing construction;

3) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 No. 239 -V (shall be enforced upon expiry of ten calendar days after the date of its first official publication);

4) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 No. 239 -V (shall be enforced upon expiry of ten calendar days after the date of its first official publication);

5) performance of other functions imposed on it by the Constitution, Laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

Footnote. Article 3 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009); as amended by the Laws of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Article 3-1. Competence of the authorized body in the scope of participatory interest in housing construction

Authorized body in the scope of participatory interest in housing construction shall:

1) implement single state policy in the scope of participatory interest in housing construction;

2) is excluded by the Law of the Republic of Kazakhstan dated 13.01.2014 No. 159 -V (shall be enforced upon expiry of ten calendar days after the date of its first official publication);

3) is excluded by the Law of the Republic of Kazakhstan dated 13.01.2014 No. 159 -V (shall be enforced upon expiry of ten calendar days after the date of its first official publication);

4) develop the rules of carrying out of accounting of contracts on participatory interest in housing construction;

5) develop qualification requirements to the activity on organization of construction of residential buildings on account of attracting money of interest holders;

5-1) approve the standard form contract on participatory interest in housing construction;

5-2) approve the rules of carrying out of accounting of contracts on participatory interest in housing construction;

6) is excluded by the Law of the Republic of Kazakhstan dated 13.01.2014 No. 159 -V (shall be enforced upon expiry of ten calendar days after the date of its first official publication);

7) exercise other powers provided by this Law, other Laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Footnote. The Law is supplemented by Article 3-1 in accordance with the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009); as amended by the Laws of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011); dated 15.07.2011 No. 461-IV (shall be enforced from 30.01.2012); dated 13.01.2014 No. 159-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication); dated 20.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Article 4. Competence of local executive bodies of oblasts (city of republican significance, the capital) in the scope of participatory interest in housing construction

Local executive bodies of oblasts (city of republican significance, the capital) in the scope of participatory interest in housing construction shall:

- 1) carry out monitoring of activity of project companies on construction of a residential building;
- 2) request and receive necessary materials and documents from project companies in the manner established by the Laws of the Republic of Kazakhstan;
- 3) issue prescriptions on elimination of detected breaches of the legislation of the Republic of Kazakhstan on participatory interest in housing construction, as well as take decision on applying compulsory measures provided by the Laws of the Republic of Kazakhstan to tenant builders and project companies;
- 4) issue, suspend the validation or deprive licenses of a project company in a judicial proceeding to activity on organization of construction of residential buildings on account of attracting money of interest holders in cases provided by the Laws of the Republic of Kazakhstan;
- 5) carry out accounting of contracts on participatory interest in housing construction;
- 6) carry out inspection of sufficiency of own capital of a tenant builder on a quarter basis in accordance with subparagraph 3) of paragraph 1 of Article 6 of this Law and project company according to qualification requirements;
- 7) carry out interaction and cooperation with the state bodies on the issues related to their competence;
- 8) determine impossibility of completing a residential building jointly with a bank agent, tenant builder and project company;
- 9) carry out other powers in favor of local state management imposed on local executive bodies by the legislation of the Republic of Kazakhstan.

Footnote. Article 4 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009); as amended by the

Law of the Republic of Kazakhstan dated 05.07.2011 No. 452-IV (shall be enforced from 13.10.2011).

Article 5. Control of activity of a tenant builder and project company by local executive bodies of oblasts (city of republican significance, the capital)

1. In case of violation of requirements of this Law, as well as regulatory legal acts adopted in accordance with it by a tenant builder and project company, the local executive bodies of oblasts (city of republican significance, the capital shall)

1) require elimination of detected violations from a tenant builder and project company;

2) direct binding prescriptions on eliminations of the breaches of this Law, as well as regulatory legal acts adopted in accordance with it to a tenant builder and project company;

3) take measures required for bringing of a tenant builder, project company and (or) their civil servants to liability established by this Law and other Laws of the Republic of Kazakhstan.

2. Tenant builder and project company to which the prescription of a local executive body of oblast (city of republican significance, the capital) is directed in accordance with subparagraph 2) of paragraph 1 of this Article shall have the right to appeal it in the manner established by the legislation of the Republic of Kazakhstan.

Footnote. Article 5 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009).

Article 6. Tenant builder and project company

1. Tenant builder shall be obliged to:

1) have an experience in erection of residential buildings, as well as in capacity of a building owner no less than three years;

2) put no less than one hundred flats in commission in the manner established by the legislation of the Republic of Kazakhstan;

3) have own capital in amount of no less than one thousand monthly calculation indices.

2. Tenant builder shall make a contribution in a charter capital of a project company in the form of money, land field, design (design and estimation) documentation and another property in accordance with the legislation of the Republic of Kazakhstan.

3. Tenant builder shall be held vicariously liable on obligations of a project company before interest holders.

4. Tenant builder and project company shall be obliged to conduct an audit of annual financial accountability and represent audit report to the local executive body of oblast (city of republican significance, the capital) no later than 30 June of the year being next to reporting year.

5. Project company and interest holder shall have the right to carry out insurance of own civil liability in respect of fulfillment of own obligations that are determined by agreement of parties.

6. Project company shall have the right to attract money for construction of a residential building in amount no more than seventy five percent of a cost of constructing the residential building.

7. Foreign organizations shall carry out the activity on organization of construction of residential buildings on account of attracting money of interest holders only through the institutions of a legal entity in the territory of the Republic of Kazakhstan.

Footnote. Article 6 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009).

Article 6-1. Licensing of activity on organization of construction of residential buildings on account of attracting money of interest holders

1. Licensing of activity on organization of construction of residential buildings on account of attracting money of interest holders shall be carried out in accordance with this Law and the legislation of the Republic of Kazakhstan on permissions and notifications.

2. Activity on organization of construction of residential buildings on account of attracting money of interest holders shall be carried out on the basis of a license for activity on organizing the construction of residential buildings on account of attracting money of the interest holders granted by local executive bodies of oblasts (city of republican significance, the capital) of a project company for construction of every residential building.

3. Tenant builder shall be obliged to transfer the notarized copies of documents confirming the requirements provided by paragraph 1 of Article 6 of this Law to a project company for representing to local executive bodies of oblasts (city of republican significance, the capital) upon receiving a license for activity on organizing the construction of residential buildings on account of attracting money of interest holders at the first stage.

4. License for activity on organization of construction of residential buildings on account of attracting money of interest holders shall be granted in two stages.

At the first stage, the license for activity on organization of construction of residential buildings on account of attracting money of interest holders shall be granted

for the term up to six months with confirmation of the following qualification requirements by a project company:

- 1) existence of a land field belonging to the project company on the basis of the right of ownership or on the basis of the right of land use;
- 2) existence of design (design estimation) documentation at the stage of zero circle of construction with a favorable conclusion of examination;
- 3) existence of permission for conduct of construction assembly works on zero circle;
- 4) existence of a contract with a bank agent;
- 5) existence of own capital for construction of a residential building in amount of no less than fifteen percent of the cost of constructing the residential building or in amount of no less than equivalent cost of constructing the zero circle.

At the second stage, the license for activity on organization of construction of residential buildings on account of attracting money of interest holders shall be granted for the term before signing the act of the state acceptance commission on acceptance of a residential building for operation upon confirming the following qualification requirements:

- 1) existence of design (design and estimate) documentation of an object of construction with favorable conclusion of examination;
- 2) completion of zero circle of developing a residential building;
- 3) existence of deposits of interest holders in amount of no less than fifteen percent of the cost of constructing a residential building in a bank agent contributed in accordance with contracts on participatory interest in housing construction;
- 4) existence of own capital for completion of construction in a full measure or existence of own capital in amount of no less than twenty five percent of the cost of constructing a residential building and agreement with an investor on provision of investments being sufficient for completion of the construction;
- 5) existence of a contract with organization rendering engineering services in the scope of architectural, urban planning and construction activity.

Footnote. The Law is supplemented by Article 6-1 in accordance with the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009); as amended by the Laws of the Republic of Kazakhstan dated 10.07.2012 No. 36-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 16.05.2014 No. 203-V (shall be enforced upon expiry of six months after the date of its first official publication).

Article 7. Contract on participatory interest in housing construction

1. Standard form contract on participatory interest in housing construction shall be approved by the authorized body.

Under the contract on participatory interest in housing construction:

the tenant builder shall be obliged to organize construction of a residential building within the term provided by the contract on participatory interest in housing construction and ensure preservation the quality of indices of an object of construction within the guarantee term stated in design (design and estimate) documentation and contract on participatory interest in housing construction;

the project company shall be obliged to build a residential building within the term established by a contract on participatory interest in housing construction and transfer the relevant share in the residential house (residential building) to an interest holder after receipt of permission for its putting into operation;

the interest holder shall be obliged to conclude bank account contract and contribute money on a deposit of the interest holder in amount and in the manner conditioned by the contract on participatory interest in housing construction, and accept a share in a residential house (residential building) in existence of permission for putting of the residential building into operation;

the bank agent shall be obliged to accept a deposit of an interest holder with computation of a rate of remuneration no less than the official bank rate of the National Bank of the Republic of Kazakhstan in conditions of the bank account contract.

After receipt of a share in a residential house (residential building) by an interest holder, the bank agent shall be obliged to transfer money from the deposit of an interest holder of a project company, and return money in amount of accumulated remuneration to the interest holder.

Rate of remuneration on bank loan given to a bank agent of a project company within attracted money of interest holders shall not exceed the amount of the rate of remuneration on deposit of the interest holder in case of accumulation, expenses of the bank agent for service of the loan, expenses on compulsory requirements and payments linked with issuance of loans, and expenses on payment of taxes and other compulsory payments in budget.

2. Contract on participatory interest in housing construction may be amended and (or) supplemented after its conclusion upon agreement of parties.

Footnote. Article 7 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009); as amended by the Law of the Republic of Kazakhstan dated 29.09.2014 No. 239-V (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Article 8. Information provided by a tenant builder and project company

Footnote. Title of Article 8 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009).

1. Tenant builder and project company shall provide the following information for examination to a person who referred for the purpose of conclusion of a contract on participatory interest in housing construction:

- 1) on the name and location of a tenant builder and project company;
- 1-1) on incorporators of a tenant builder and project company with specification of: the name of a legal entity-incorporator; last name, first name, patronymic (where available) of an individual-incorporator;
- 2) reference on the state registration (reregistration) of legal entities-tenant builder and project company;
- 3) taxpayer's certificate;
- 4) *is excluded by the Law of the Republic of Kazakhstan dated 19.03.2010 No. 258-IV*;
- 5) audit conclusion for the last year of carrying out of entrepreneurial activity in housing construction by a tenant builder and project company;
- 6) license of a project company for activity on organizing the construction of residential buildings on account of attracting money of interest holders;
- 7) on projects of construction of residential buildings which the tenant builder is carried out within three years, with specification of location of mentioned objects, their terms of putting into operation;
- 8) on object of construction;
- 9) documents confirming the relevant rights of a tenant builder or project company to the land field.

2. Information on object of construction shall include:

- 1) permission for construction in stages;
- 2) statement of location and description of the object in accordance with design (design and estimate) documentation;
- 3) details on stages of construction and terms of its completion;
- 4) main details on a general contractor, including the name, work experience in this scope, existence of a license, information of the objects of construction put in commission, where he (she) acted as the general contractor.

Footnote. Article 8 as amended by the Laws of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009); dated 19.03.2010 No. 258-IV ; dated 24.12.2012 No. 60-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 9. Forms and compulsory conditions of a contract on participatory interest in housing construction

1. Contract on participatory interest in housing construction shall be concluded in written form on the basis of the standard form contract approved by the authorized

body, shall be subject to accounting and be considered as concluded from the date of such accounting.

2. Compulsory conditions of a contract on participatory interest in housing construction are:

1) determination of a share in a residential house (residential building) for an interest holder in accordance with design (design estimate) documentation, subjected to transfer to him (her) by a project company after receipt of permission for its putting into operation;

2) term of transferring the share in a residential house (residential building) by a project company to an interest holder;

3) contract price, in other words a sum of money subjected to entering on a deposit of interest holder by an interest holder under bank account contract, proceeding from the calculation of residential and (or) non-residential premises for a square metre of floor area;

4) guarantee term for a residential building built under a contract on participatory interest in housing construction;

5) compulsory annex of a part of architectural design (design and estimate) documentation (development plan of residential premise, number of floors) to the contract, related to the residential premise in a residential building subjected to transferring to an interest holder;

6) specification of amount of penalty (late fee) in case of violation of the term of transferring the share in a residential house (residential building) provided by the contract of an interest holder to him (her) by a project company;

7) specification of amount of penalty (late fee) in case of violation of the term of making payment by an interest holder, established by the contract;

8) procedure and terms of transferring money of an interest holder by a bank agent of a project company;

9) specification on necessity of existence of a primary contribution on a deposit of an interest holder under the bank account contract in amount of no less than fifteen percent of a contract price on participatory interest in housing construction.

3. Guarantee term for a residential building may not be less than two years from the date of acceptance of the object of construction for operation.

4. In the absence of conditions in the contract provided by paragraph 2 of this Article, the contract may not be registered.

5. In case of death of a citizen – participant of participatory construction or declaring him (her) as deceased, his (her) rights and obligations under the contract shall be transferred to successors in accordance with the civil legislation of the Republic of

Kazakhstan. Tenant builder, project company, bank agent shall not have the right to refuse to such successors in transfer of rights and obligations of a participant of participatory construction.

6. In case if the interest holder that concluded a contract on participatory interest in housing construction pays the contract price in a full measure according to condition of the contract, the further change of the price for 1 square metre of floor area of a residential building shall not be allowed.

7. Tenant builder and project company shall inform interest holders by compulsory notifying in case of change of actual address, as well as work regime.

Footnote. Article 9 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009); as amended by the Law of the Republic of Kazakhstan dated 29.12.2014 NO. 269-V (shall be enforced from 01.01.2015).

Article 10. Conclusion of a contract on participatory interest in housing construction

Tenant builder, project company, interest holder and bank agent shall have the right to conclude a contract on participatory interest in housing construction after receipt of a license for activity on organizing the construction of residential buildings by the project company in the manner established by this Law at the first stage on account of attracting money of interest holders.

Footnote. Article 10 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009).

Article 11. Account of contracts on participatory interest in housing construction

1. Contract on participatory interest in housing construction, amendments and (or) supplements in it, as well as assignment of the right of demand under the contract shall be subject to accounting in a local executive body of oblast (city of republican significance, the capital) on location of a residential building being under construction.

2. For account of contracts on participatory interest in housing construction, amendments in it, as well as assignment of the right of demand under the contract, the project company shall represent the documents within five business days from the date of conclusion of the contract or additional agreement with specification of areas of shares and their location of a residential building under construction.

Project company shall be obliged to represent an extract to an interest holder and bank agent on accounting record of a contract on participatory interest in housing construction within ten business days after accounting in a local executive body of oblast (city of republican significance, the capital).

Upon accounting of contracts, amendments in it, as well as assignment of the right of demand, the compulsory inspection under the contract with respect to existence of previously registered rights of third parties for the share shall be carried out. In existence of such rights, it shall be refused in accounting of the contract.

3. Accounting of contracts of participatory interest in housing construction shall be carried out with provision of permission to a local executive body of oblast (city of republican significance, the capital) for construction or its stage by a project company, with the exception of documents mentioned in paragraph 2 of this Article.

4. Accounting of contracts shall be carried out within five business days from the date of filing the documents to the local executive body of oblast (city of republican significance, the capital).

5. In case of unilateral refusal from performance of the contract, the party-initiator shall be obliged to represent an application on accounting of unilateral refusal from performance of the contract to the local executive body of oblast (city of republican significance, the capital). By this, the party-initiator shall be obliged to notify other parties on unilateral refusal from performance of the contract within ten calendar days from the date of filing the application.

Footnote. Article 11 as amended by the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009).

Article 12. Fulfillment of obligations

1. Payment of a contract price by an interest holder shall be made by making payment within the terms established by the contract.

2. Obligations of an interest holder shall be considered as fulfilled from the date of payment of money in a full measure and acceptance of a share in a residential house (residential building) in accordance with the contract on participatory interest in housing construction.

3. Obligations of a project company shall be considered as fulfilled from the date of receipt of permission for putting of a residential house into operation and signing of the act on transferring the relevant share in a residential house (residential building) to an interest holder by parties.

4. Obligations of a bank agent shall be considered as fulfilled from the date of transferring money to a project company from deposits of interest holders in accordance with the contract on participatory interest in housing construction and return of money in amount of accumulated remuneration to the interest holders.

5. Obligations of a tenant builder shall be considered as fulfilled upon expiry of a guarantee term and after performance of obligations by him (her) on elimination of

occurred violations of quality of indices of an object of construction stated in design (design and estimate) documentation and contract on participatory interest in housing construction during the guarantee term.

6. Risk of accidental loss or accidental damage of a share in a residential house (residential building) put in place before its transferring to an interest holder shall be carried by a project company. After signing the transfer act by parties, the risk of accidental loss or accidental damage shall be transferred to the interest holder.

Footnote. Article 12 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009).

Article 13. Modification and dissolution of a contract

1. Upon agreement of a tenant builder, project company, interest holder and bank agent, the conditions of the contract may be modified after its conclusion, if the contract and (or) additional agreements to it provide the cases and conditions of its modification.

1-1. Interest holder shall have the right to dissolve a contract on participatory interest in housing construction in advance and demand a sum of deposit of an interest holder within thirty calendar days from the date of conclusion of the bank account contract.

Upon expiry of this term, the demand of money by an interest holder is possible only in cases of:

termination of validity of a license of a project company for activity on organizing the construction of residential buildings on account of attracting money of interest holders;

violation of the terms of putting a residential building into operation by a project company, stated in the contract on participatory interest in housing construction.

1-2. Upon dissolution of a contract on participatory interest in housing construction , in cases provided by paragraph 1-1 of this Article, the bank agent shall return money to an interest holder from the deposit of the interest holder and money in amount of accumulated remuneration.

2. Assignment of the right of demand by an interest holder under a contract on participatory interest in housing construction shall be allowed only after payment of the contract price by him (her) or at the same time with a transfer of debt to a new interest holder in the manner established by the Civil Code of the Republic of Kazakhstan.

Upon such assignment, amendments to the contract on participatory interest in housing construction or additional agreement shall contain information on cost, on which the interest holder shall assign, and the new interest holder shall acquire the right of demand of the share in a residential building under the contract on participatory interest in housing construction.

3. Assignment of the right of demand by an interest holder under the contract on participatory interest shall be allowed from the date of accounting of contracts until the date of signing the act on transferring the relevant share in a residential house (residential building) by parties.

4. In case of violation of compulsory conditions of the contract on participatory interest in housing construction, any of parties shall have the right to refuse unilaterally from performance of the contract and demand its bringing to the primary position with payment of a penalty in accordance with Article 17 of this Law, as well as compensation for losses in accordance with the Civil Code of the Republic of Kazakhstan.

Footnote. Article 13 as amended by the Laws of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009); dated 16.11.2009 No. 200-IV (shall be enforced from 01.01.2010).

Article 14. Transfer of the share in a residential house (residential building)

Footnote. Title of Article 14 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009).

1. Project company shall be obliged to transfer the share to an interest holder in a constructed residential house (residential building) no later than the term that is provided by the contract.

Transfer of the share in a residential house (residential building) by a project company and its acceptance by an interest holder shall be carried out by the parties according to the transfer act.

2. Transfer of the share to an interest holder in a residential house (residential building) shall be carried out by a project company no earlier than receipt of the permission by it for putting of the residential building into operation.

3. After receipt of the permission for putting all the residential building into operation, the project company shall have the right to fulfill the obligations in advance on transferring the shares in a residential house (residential building) to the relevant interest holders.

4. Interest holder that received written notification of a project company on completion of construction and readiness of the share in a residential house (residential building) to be transferred, shall be obliged to proceed to its acceptance within the term provided by the contract or, if such term is not established, within seven business days from the date of receipt of mentioned notification.

5. Before signing of the act on transferring the share in a residential house (residential building), the interest holder shall have the right to demand from a project company specification of non-conformity of his (her) share in the residential house (residential building) to requirements in the transfer act stated in this Law or in the

contract, or refuse from signing the transfer act. By this, the project company shall be obliged to enter these details to the transfer act.

6. Unless otherwise established by the contract, upon avoidance of accepting own share in a residential house (residential building) by an interest holder within the term provided by paragraph 4 of this Article or upon refusal of the interest holder from its acceptance (with the exception of case mentioned in paragraph 5 of this Article), the project company shall have the right to dissolve the contract upon expiry of fourteen business days from the date provided by the contract for transferring the relevant share in a residential house (residential building).

Footnote. Article 14 as amended by the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009).

Article 14-1. Technical supervision

1. Project company shall be obliged to involve an organization on rendering of engineering services in the scope of architectural, urban planning and construction activity for carrying out of technical supervision.

2. Reports of the organization on rendering of engineering services shall be represented to a tenant builder, project company and bank agent in case, if he (she) serves as investor.

Footnote. The Law is supplemented by Article 14-1 in accordance with the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009).

Article 15. Special aspects of advertising linked with organization of participatory interest in housing construction

1. Before receipt of a license for activity on organization of construction of residential buildings on account of attracting money of interest holders, the tenant builder shall have the right to carry out advertising of a project of construction of the residential building without the right of conclusion of contracts on participatory interest in housing construction.

2. Advertising for attracting money of interest holders to the bank agent during suspension of validity of the license of a project company for activity on organizing the construction of residential buildings on account of attracting money of the interest holders shall be prohibited by local executive bodies of oblasts (city of republican significance, the capital).

Footnote. Article 15 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009).

Article 16. Violation of requirements to organization of participatory interest in housing construction

In case of provision of incomplete and untrustworthy information established by this Law by a tenant builder and project company, the interest holder shall have the right to go in court with a lawsuit on recognizing the transaction invalid.

Footnote. Article 16 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009).

Article 17. Liability of parties under contract on participatory interest in housing construction

1. In case of violation of the term of transferring the share in a residential house (residential building) to an interest holder provided by the contract, the project company shall pay a penalty (late fee) to the interest holder-individual in amount of 0,1 percent of the sum paid by the interest holder under the contract of participatory interest in housing construction for each day of arrears.

If the interest holder is a legal entity, the project company shall pay the penalty (late fee) in amount established by the contract on participatory interest in housing construction.

2. Interest holder that detected deviations from the contract or other deficiencies within the guarantee term after acceptance of the results of work, that could not be established upon usual method of acceptance (latent defects), as well as such that were hid intentionally by the project company, shall have the right to demand at own option within the term coordinated by parties from the tenant builder as follows:

- 1) non-repayable elimination of deficiencies;
- 2) proportioned decrease of the contract price;
- 3) compensation for own expenses for elimination of deficiencies.

3. In case of violation of the term of making payment established by the contract, the interest holder shall pay a penalty (late fee) to a project company in amount of 0,1 percent for each day of arrears from the sum subjected to payment by the interest holder within the period established by the contract by making a deposit of the interest holder in a bank agent.

4. Interest holder shall not be liable for financial and other risks of a tenant builder, project company and investor in virtue of a contract on participatory interest in housing construction upon carrying out of construction of a residential building.

In case of impossibility of a project company to complete construction and (or) transfer the share in a residential house (residential building), the bank agent shall return money to an interest holder from deposit of the interest holder and money in amount of accumulated remuneration.

Footnote. Article 17 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2009 No. 183 (shall be enforced from 22.10.2009).

Article 18. Liability for breach of the legislation of the Republic of Kazakhstan on participatory interest in housing construction

Breach of the legislation of the Republic of Kazakhstan on participatory interest in housing construction shall entail liability established by the Laws of the Republic of Kazakhstan.

Article 19. Transitional provisions

1. Force of this Law shall not apply to relations of participatory interest in housing construction that are occurred before entering of this Law into force.

2. If permission for a regular stage of construction of a residential building by participatory interest was issued to a tenant builder before entering of this Law into force, the provisions provided by this Law shall not apply to the tenant builder.

Article 20. Entering of this Law into force

This Law enters into force from 1 January 2007.

The President
of the Republic of Kazakhstan