

On equity participation in housing construction

Unofficial translation

The Law of the Republic of Kazakhstan dated April 7, 2016, № 486-V LRK.

Unofficial translation

Footnote. Throughout the text:

the words "residential houses (residential buildings)", "residential house (residential building)", "in a residential house (in a residential building)", "residential houses (residential buildings)", "in residential houses (in residential buildings)" are replaced by the words "multi-apartment residential buildings", "multi-apartment residential building", "in a multi-apartment residential building", "multi-apartment residential buildings", "in multi-apartment residential buildings"; the words "residential or non-residential premise", "residential or non-residential premises", "residential and (or) non-residential premises" are replaced, respectively, by the words "apartment or non-residential premise", "apartments or non-residential premises", "apartments and (or) non-residential premises" in accordance with the Law of the Republic of Kazakhstan dated 26.12.2019 No. 284-VI (shall be enforced upon expiry of ten calendar days after its first official publication);

the words "of Guarantee Fund", "to Guarantee Fund", "by Guarantee Fund", "Guarantee Fund", "in the Guarantee Fund" shall be replaced respectively by the words "of Unified Operator", "to Unified Operator", "by Unified Operator", "Unified Operator", "in Unified Operator" in accordance with the Law of the Republic of Kazakhstan dated 09.06.2020 No. 341-VI (shall come into effect from 01.07.2020).

This Law regulates public relations associated with the activities of shared participation in housing construction of multi-apartment residential buildings by attracting the money of individuals and (or) legal entities, and also establishes guarantees for protection of the rights and legitimate interests of the parties to the contract on shared participation in housing construction.

Chapter 1. General provisions

Article 1. Basic definitions used in this Law

The following basic definitions are used in this Law:

1) guarantee - the obligation of Unified Operator of the Housing Construction for organization of completion of construction of a multi-apartment residential building upon occurrence of a guarantee case and transfer of a share in a multi-apartment residential building to shareholders under contracts on shared participation in housing construction;

2) guarantee case – an event or a set of events defined by this Law, with the occurrence of which the Unified Operator of the Housing Construction has an obligation to complete construction of a multi-apartment residential building and liability to shareholders under the contract on providing a guarantee of shared participation in housing construction;

3) guarantee fee - the amount of money paid by an authorized company to Unified Operator of the Housing Construction under a guarantee contract of equity participation in housing construction;

4) guarantee period - the term of operation of construction objects of a multi-apartment residential building, established in accordance with the Civil Code of the Republic of Kazakhstan and the legislation of the Republic of Kazakhstan on architectural, urban planning and construction activities, during which the developer, authorized company and contractor (general contractor) shall guarantee the preservation of quality indicators of a multi-apartment residential building built and put into operation in accordance with the design and estimate documentation and the contract of shared participation in housing construction;

5) a suspensive condition - a condition or a set of conditions with the onset of which the parties have rights and obligations under the trust management agreement with voting shares (shares in the authorized capital) of the authorized company in the event of a guarantee event;

6) a share in a multi-apartment residential building - an apartment or non-residential premise transferred to a shareholder in pursuance of the contract on equity participation in housing construction, which is part of the constructed multi-apartment residential building (residential housing);

7) the design cost of a multi-apartment residential building (hereinafter - the design cost) - the cost of construction and installation works, project management costs, designer's and technical supervision, remuneration for loans and other expenses provided for by this Law;

8) the framework of a multi-apartment residential building - a supporting system (framework), taking up the loads and impacts, providing strength, rigidity and stability of a multi-apartment residential building, having supporting structures, floor and roof structures;

9) excluded by the Law of the Republic of Kazakhstan dated 09.06.2020 No. 341-VI (shall come into effect from 01.07.2020);

10) equity participation in housing construction - the relations of the parties, based on the contract on equity participation in housing construction;

11) a guarantee contract of equity participation in housing construction (hereinafter referred to as the guarantee contract) - a contract concluded between the Unified Operator, the developer and the authorized company in the manner and under the terms determined by this Law;

12) participants in equity participation in housing construction - developer, authorized company, contractor (general contractor), second-tier bank, engineering company, Unified Operator and equity holder;

13) engineering company in the field of equity participation in housing construction (hereinafter referred to as an engineering company) - a legal entity, rendering engineering services in architecture, town planning and construction accredited in accordance with the legislation of the Republic of Kazakhstan and in accordance with the requirements of this Law;

14) engineering services in the sphere of shared participation in housing construction - a set of engineering services in the field of architectural, urban planning and construction activities, including monitoring the progress of construction of a multi-apartment residential building and control over the targeted use of money allocated for construction of a multi-apartment residential building;

15) developer in the sphere of shared participation in housing construction (hereinafter-the developer) - a legal entity carrying out activities to organize shared participation in housing construction of multi-apartment residential buildings at the expense of own and (or) attracted money through participation in the authorized capital of an authorized company;

16) an authorized body in the field of equity participation in housing construction (hereinafter referred to as the authorized body) - central executive body that administers, and within its competence conducts an inter-sectoral coordination in the field of equity participation in housing construction;

17) a contract on shared participation in housing construction – a contract concluded between an authorized company and a shareholder, regulating the legal relations of the parties related to the shared participation in housing construction, in which one party undertakes to ensure construction of a multi-apartment residential building and transfer upon completion of construction a share in a multi-apartment residential building to the second party, and the second party - to make payment and receive a share in a multi-apartment residential building;

17-1) Unified Housing Construction Operator (hereinafter referred to as the Unified Operator) - a mortgage organization with the direct or indirect participation of the state in the authorized capital, the purpose of which shall be to participate in the implementation of the state policy in the field of ensuring the availability of housing to the population of the Republic of Kazakhstan through the mechanisms of mortgage lending and the provision of rental housing, development of shared housing construction, as well as ensuring the availability of financial resources for the construction industry;

18) an authorized company - a legal entity, one hundred percent of the voting shares (participation shares in the authorized capital) of which belong to the developer, carrying out activities to ensure the shared construction of a multi-apartment residential building and the sale of shares in a multi-apartment residential building, which is not entitled to engage in any other commercial activity, except for the activities in special economic zones;

18-1) an authorized organization - a legal entity, one hundred percent of voting shares (participatory interests in the authorized capital) of which are directly or indirectly owned by the state, carrying out activities to ensure the completion of construction of problematic

housing projects in the capital, cities of republican significance or other administrative-territorial units in the frames of the state programs of housing construction;

19) shareholder - an individual (with the exception of temporarily staying foreigners) or a legal entity that concluded a contract on shared participation in housing construction in order to obtain a share in a multi-apartment residential building;

20) low-rise construction - low-rise residential building (residential housing) with a height of no more than three above-ground floors (without the attic), including the blocked residential building (residential housing), each of which has direct access to the near-apartment plot.

Footnote. Article 1 as amended by the Law of the Republic of Kazakhstan dated 02.04.2019 No. 241-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 26.12.2019 No. 284-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 09.06.2020 No. 341-VI (shall come into effect from 01.07.2020).

Article 2. Legislation of the Republic of Kazakhstan on equity participation in housing construction

1. Legislation of the Republic of Kazakhstan on equity participation in housing construction is based on the Constitution of the Republic of Kazakhstan and consists of the Civil Code of the Republic of Kazakhstan, this Law and other normative legal acts of the Republic of Kazakhstan.

2. Legislation of the Republic of Kazakhstan on housing relations and on architectural, town-planning and construction activities extends to equity participation in housing construction in the part not regulated by this Law.

3. If an international treaty ratified by the Republic of Kazakhstan establishes other rules than those contained in this Law, the rules of the international treaty shall apply.

Article 3. Scope of this Law

1. This Law applies to relations in which one party shall be obliged to ensure construction of a multi- apartment residential building and to transfer apartments or non-residential premises in a multi-apartment residential building to the second party upon completion of construction, and the second party - to pay and accept apartments or non-residential premises in a multi-apartment residential building.

2. It is prohibited to attract money from individuals and legal entities for construction of multi-apartment residential buildings in violation of the requirements, established by this Law . Transaction on attracting money from individuals and legal entities for construction, committed in violation of the requirements of this Law, shall be held invalid.

The provisions of this paragraph shall not apply to the activities of authorized organizations, attracting money from individuals and legal entities to complete construction of problem housing projects.

3. The provisions of this Law in terms of concluding contracts on shared participation in housing construction shall also apply to contractors of the developer and (or) an authorized company in the event of paying them through providing the shares in a multi-apartment residential building.

4. This Law does not apply to the relations related to:

1) public procurement;

2) investing in housing construction or organizing construction by legal entities, whose controlling stake is directly or indirectly owned by the state, without the right to sell apartments and (or) non-residential premises in the construction object before putting it into operation, except for the of Unified Operator and authorized organizations;

3) acquisition only by legal entities of apartments and (or) non-residential premises in a multi-apartment residential building under construction without the right to sell (assignment of rights of claim) to individuals and (or) legal entities of apartments and (or) non-residential premises in a multi-apartment residential building under construction before putting it into operation;

4) low-rise construction.

Footnote. Article 3 as amended by the Law of the Republic of Kazakhstan dated 02.04.2019 No. 241-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication);

Chapter 2. State regulation in the field of equity participation in housing construction Article 4. Competence of the Government of the Republic of Kazakhstan in the field of equity participation in housing construction

The competence of the Government of the Republic of Kazakhstan in the field of equity participation in housing construction includes:

1) development of the main directions of the state policy in the field of equity participation in housing construction and organization of their implementation;

2) establishment (definition) of the Unified Operator;

3) **excluded by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).**

Footnote. Article 4 as amended by the Law of the Republic of Kazakhstan dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 5. Competence of an authorized body

An authorized body:

1) forms and implements the state policy in the field of equity participation in housing construction;

2) develops and approves the standard form of a contract on equity participation in housing construction;

3) develops and approves the standard form of a guarantee contract;

4) develops and approves the rules for recording of contracts on equity participation in housing construction by local executive bodies, as well as contracts on assignment of claims on them;

5) develops and approves a standard form of a land plot pledge agreement together with an object of unfinished construction;

6) develops and approves the standard form of the pledge agreement for voting shares (shares in the authorized capital) of the authorized company;

7) develops and approves the standard form of a contract of trust management of voting shares (shares in the authorized capital) of the authorized company;

8) develops and approves the procedure for determining the amount of the guarantee fee;

9) develops and approves the methodology for determining the capital adequacy ratio;

10) develops and approves the methodology of calculation and formation of a reserve for settlement of guarantee cases;

11) develops and approves the rules for issuing permits to attract money from equity investors;

11-1) develops and approves the rules for changing the ways of organizing participation in shared housing construction;

11-2) develops and approves the rules for maintaining a unified information system of participation in shared housing construction;

12) exercises other powers provided for 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. Article 5 as amended by the Law of the Republic of Kazakhstan dated 02.04.2019 No. 241-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 19.04.2023 No. 223-VII (shall be enforced ten calendar days after the date of its first official publication).

Article 6. Competence of local executive bodies of regions, cities of republican significance, the capital, districts, towns of regional significance

Local executive bodies of regions, cities of republican significance, the capital, districts, towns of regional significance in the field of equity participation in housing construction:

- 1) carry out state regulation of activity of participants of construction of objects of equity participation in housing construction in accordance with the legislation of the Republic of Kazakhstan on architectural, town-planning and construction activities;
- 2) issue permits to attract money from equity investors;
- 3) keep records of issued permits to attract money from equity investors;
- 4) quarterly, not later than the 15th day of the month following the reporting period, provide information on the issued permits to attract money from equity investors to the authorized body;
- 5) request the necessary materials and documents from developers, authorized companies, engineering companies and of Unified Operator to monitor the progress of construction of objects of equity participation in housing construction;
- 6) carry out state control and supervision in the field of equity participation in housing construction;
- 7) carry out interaction and cooperation with state bodies on issues within their competence;
- 8) interact with participants of equity participation in housing construction;
- 9) keep records of contracts on equity participation in housing construction, as well as contracts on assignment of claims on them;
- 10) in the interests of local public management, exercise other powers vested in local executive bodies by the legislation of the Republic of Kazakhstan.

Chapter 3. Organization of equity participation in housing construction

Article 7. Ways to organize equity participation in housing construction

1. Equity participation in housing construction is organized in one of the following ways:
 - 1) obtaining the guarantee of the Unified Operator;
 - 2) participation in a second-tier bank's project;
 - 3) attracting money from shareholders after construction of the frame of a multi-apartment residential building.

1-1. It shall be allowed to change the methods of organizing participation in shared housing construction in accordance with the procedure determined by the authorized body.

2. It is prohibited to attract money from individuals and legal entities for construction of a multi-apartment residential buildings in other ways, that are not provided for by this Article.

Footnote. Article 7 as amended by the Law of the Republic of Kazakhstan dated 02.04.2019 No. 241-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 8. Organization of equity participation in housing construction by obtaining guarantee from the Unified Operator

1. In order to carry out activities related to organization of equity participation in housing construction by means of obtaining a guarantee from the Unified Operator, the developer must comply with the following requirements:

1) have experience in completed construction projects of multi-apartment residential buildings, including as a customer, contractor (general contractor) in aggregate, for at least three years, with a total area of at least eighteen thousand square meters when building in the cities of republican significance, the capital city and at least nine thousand square meters when building in other administrative-territorial units;

2) have assets remaining after deducting short-term and long-term liabilities for the last two financial years according to its financial statements, confirmed by an audit report;

3) the value of the coefficient, calculated by the ratio of borrowed and equity capital, should not exceed seven during the entire period of construction of a multi-apartment residential building before its acceptance into operation.

2. To carry out activities for organizing shared participation in housing construction by obtaining a guarantee from the Unified Operator, the developer shall create an authorized company or acquire one hundred percent of voting shares (participation shares in the authorized capital) of another legal entity to carry out activities for no more than one project of construction of a multi-apartment residential building.

A project for construction of a multi-apartment residential building may provide for several construction objects on one land plot.

Construction of construction projects on several plots of land shall be allowed, if such construction is provided for by the project for construction of a multi-apartment residential building.

The developer shall have the right to attract an authorized company, that has fulfilled its obligations for the construction, commissioning and acceptance into operation of the previous project for the construction of a multi-apartment residential building, or another legal entity, the only founder (participant) of which it is.

3. To organize equity participation in housing construction by way of obtaining a guarantee from the Unified Operator, an authorized company must have:

1) a land plot belonging on the basis of the right of temporary paid land use (rent) granted by the state, or on the basis of the right of ownership;

2) design and estimate documentation of the project for construction of a multi-apartment residential building with a positive conclusion of a comprehensive extra-departmental expertise;

3) the money planned for expenditure in accordance with Article 20 of this Law, and (or) construction in progress, confirmed by the acts of work performed, in the amount of not less than ten percent of the project cost if the land plot belongs on the basis of the right of ownership, or not less than fifteen percent of the project cost in the event that the land plot belongs on the basis of the right of temporary paid land use (rent) granted by the state;

4) money for payment of fee for consideration of documents, guarantee fee under a guarantee contract;

5) a contract for construction of a multi-apartment residential building.

4. The property specified in paragraph 3 of this article shall be free from any encumbrances, rights and claims of third parties.

Construction and installation work in progress, referred to in subparagraph 3) of paragraph 3 of this article, must be paid in full by the developer and (or) an authorized company before submitting an application to the Unified Operator and confirmed by acts of reconciliation of settlements between the customer and the contractor.

5. If the developer and the authorized company comply with the requirements, established by this Article, the Unified Operator shall check the documents for the construction project of a multi-apartment residential building in the manner, approved by the authorized body and conclude a contract on guarantee provision.

6. The concluded guarantee contract is the basis for attracting the money of the equity holders and does not require the developer and the authorized company to obtain permission from the local executive body to attract the money of the equity holders.

7. In order to fulfill the requirements of this Law, the developer shall submit to the Unified Operator an annual financial report, confirmed by an audit report, and the authorized company shall submit to the Unified Operator the quarterly financial statements in accordance with the legislation of the Republic of Kazakhstan on accounting and financial reporting during the term of the guarantee agreement.

Footnote. Article 8 as amended by the Law of the Republic of Kazakhstan dated 02.04.2019 No. 241-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 26.12.2019 No. 284-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 9. Organization of equity participation in housing construction through participation in a second-tier bank's project

1. To carry out activities on organization shared participation in housing construction by participating in a second-tier bank project, the developer must have experience in completed construction projects for multi-apartment residential buildings, including as a customer, contractor (general contractor) in aggregate, for at least three years, with a total area of at least eighteen thousand square meters when building in cities of republican significance, the capital city and at least nine thousand square meters when building in other administrative-territorial units.

2. To organize shared participation in housing construction by participating in a second-tier bank project, the developer shall create an authorized company or acquire one

hundred percent of voting shares (participation shares in the authorized capital) of another legal entity to carry out activities on no more than one project for construction of a multi-apartment residential building.

A project for construction of a multi-apartment residential building may provide for several construction objects on one land plot.

Construction of construction projects on several plots of land shall be allowed, if such construction is provided for by the project for construction of a multi-apartment residential building.

The developer shall have the right to attract an authorized company, that has fulfilled its obligations for the construction, commissioning and acceptance into operation of the previous project for the construction of a multi-apartment residential building, or another legal entity, the only founder (participant) of which it is.

3. To organize equity participation in housing construction by way of participation in a second-tier bank's project, an authorized company must have:

1) a land plot belonging on the basis of the right of temporary paid land use (rent), granted by the state, or on the basis of the right of ownership;

2) design and estimate documentation of the project for construction of a multi-apartment residential building with a positive conclusion of a comprehensive extra-departmental expertise;

4. The property specified in paragraph 3 of this article shall be free from any encumbrances, rights and claims of third parties, except for a land plot, which may be pledged to a second-tier bank, financing the construction.

5. If the developer and the authorized company comply with the requirements, established by this Article, the developer and (or) the authorized company shall apply to a second-tier bank to obtain the decision of a second-tier bank's on readiness to finance the construction of a multi-apartment residential building in an amount sufficient to complete construction.

In case of readiness to finance a multi-apartment residential building, a second-tier bank shall conclude a contract with an engineering company.

6. In the event that the developer and the authorized company comply with the requirements set forth in this article, the developer and the authorized company shall apply to the local executive body of the region, city of the republican significance, the capital, district, town of regional significance for obtaining permission to attract the money of the equity holders in the procedure established by Article 18 of this Law.

7. A second-tier bank shall have the right to make a decision on the use of shareholders' money from the bank account of an authorized company, taking into account the requirements, established by Article 20 of this Law, only after construction of the frame of a multi-apartment residential building confirmed by an engineering company.

8. The property specified in subparagraphs 1) and 2) of paragraph 3 of this article shall be deemed to be pledged to equity holders from the moment of registering the contract on equity participation in housing construction in the local executive body.

9. When a second-tier bank makes a decision to sell the pledged property specified in subparagraphs 1) and 2) of paragraph 3 of this article, the money received from the sale of the pledged property is sent to meet the requirements of equity investors who submitted a demand for a refund and a second-tier bank. If there is a shortage of money received from the sale of the pledged property, the difference after deduction of the amounts necessary to cover expenses related to foreclosure of this property and its sale is distributed among the equity holders and the second-tier bank in proportion to the size of their claims by the time these requirements are met.

10. The money, due and payable to equity holders, who did not articulate their claims before the date of public tenders, where the pledged property was sold, is sent to the bank deposit account in accordance with the condition of the contract on equity participation in housing construction.

Since the conclusion of the contract on equity participation in housing construction, a second-tier bank is recognized as a trustee of equity holders when applying for foreclosure of the pledged property and its sale.

11. From the moment the authorized company transfers a share in a multi-apartment residential building to a shareholder in the procedure, established by Article 17 of this Law, the right of pledge shall be terminated.

Footnote. Article 9 as amended by the Law of the Republic of Kazakhstan dated 02.04.2019 No. 241-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 26.12.2019 No. 284-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 10. Organization of shared participation in housing construction by means of attracting money from shareholders after construction of the frame of a multi-apartment residential building

1. In order to carry out activities on organization shared participation in housing construction by attracting money from shareholders after construction of the frame of a multi-apartment residential building, the developer shall be obliged to build and commission on the territory of the Republic of Kazakhstan, within the last five years, including as a customer, contractor (general contractor) in aggregate, multi-apartment residential buildings with a total area of at least sixty thousand square meters when building in cities of republican significance, the capital city and at least thirty thousand square meters when building in other administrative-territorial units. The total experience of the developer's subsidiaries shall be taken into account in this case.

2. To organize shared participation in housing construction by attracting money from shareholders after construction of the frame of a multi-apartment residential building, the

developer shall create an authorized company or acquire one hundred percent of voting shares (participation shares in the authorized capital) of another legal entity to carry out activities on no more than one project for construction of a multi- apartment residential building.

A project for construction of a multi-apartment residential building may provide for several construction objects on one land plot.

Construction of construction projects on several plots of land shall be allowed, if such construction is provided for by the project for construction of a multi- apartment residential building.

The developer shall have the right to attract an authorized company, that has fulfilled its obligations for the construction, commissioning and acceptance into operation of the previous project for the construction of a multi-apartment residential building, or another legal entity, the only founder (participant) of which it is.

3. To organize shared participation in housing construction by attracting money from shareholders after construction of the frame of a multi-apartment residential building, an authorized company shall be obliged to have:

1) a land plot belonging on the right of temporary paid land use (rent), provided by the state, or by the right of ownership;

2) design and estimate documentation of the project for construction of a multi-apartment residential building with a positive conclusion of a comprehensive extra-departmental expertise;

3) availability of the completed construction of the frame of a multi-apartment residential building, confirmed by the report of an engineering company;

4) a contract with an engineering company.

4. The property defined in paragraph 3 of this article must be free from any encumbrances , rights and claims of third parties.

5. If the developer and the authorized company meet the requirements established by this article, the developer and the authorized company apply to the local executive body of the region, city of republican significance, the capital, district, city of regional significance to obtain permission to raise money from equity holders in the manner prescribed by Article 18 of this Law.

6. After obtaining permission for attracting money from shareholders, the authorized company shall organize construction of a multi-apartment residential building by attracting money from shareholders in accordance with the requirements Article 20 of this Law.

7. The property specified in subparagraphs 1), 2) and 3) of paragraph 3 of this article is considered to be pledged to equity holders from the moment the agreement on equity participation in housing construction is recorded in the local executive body.

8. Pledge of property specified in subparagraphs 1), 2) and 3) of paragraph 3 of this article is not allowed.

9. In case of non-fulfillment or improper fulfillment of obligations to complete the construction of a multi-apartment residential building by the authorized company, shareholders shall have the right to initiate bankruptcy proceedings for the authorized company in accordance with the legislation of the Republic of Kazakhstan on rehabilitation and bankruptcy.

10. In the event of bankruptcy of an authorized company, the shareholders shall have the right to form a housing-construction cooperative in accordance with the housing legislation of the Republic of Kazakhstan to complete the construction of a multi-apartment residential building.

11. From the moment the authorized company transfers a share in a multi-apartment residential building to a shareholder in accordance with the procedure, established by Article 17 of this Law, the right of pledge shall be terminated.

Footnote. Article 10 as amended by the Law of the Republic of Kazakhstan dated 26.12.2019 No. 284-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Chapter 4. A contract on equity participation in housing construction

Article 11. A contract on equity participation in housing construction

1. A contract on shared participation in housing construction shall be concluded in writing and is considered concluded from the moment of its registration in the local executive body at the location of a multi-apartment residential building in the manner, prescribed by Article 12 of this Law.

2. The parties to the contract on equity participation in housing construction shall inform each other of the change in the actual address and (or) other personal data in writing within thirty calendar days.

Article 12. Registration of contract on equity participation in housing construction

1. A contract on shared participation in housing construction, amendments and (or) additions to it, as well as a contract on assignment of the right to claim under it shall be subject to registration in the local executive body at the location of a multi-apartment residential building upon presentation of an authorized company using a unified information system of shared participation in housing construction.

2. Registration of contracts on equity participation in housing construction is carried out in accordance with the rules of registration of contracts on equity participation in housing construction, as well as contracts for assignment of claims for them, approved by the authorized body.

Footnote. Article 12 as amended by the Law of the Republic of Kazakhstan dated 02.04.2019 No. 241-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 13. Change and cancellation of a contract on equity participation in housing construction

1. A contract on equity participation in housing construction after its conclusion, by agreement of the parties, may be amended and/or added in the manner provided for by the civil legislation of the Republic of Kazakhstan. In such cases, additional agreements to the contract on equity participation in housing construction are also subject to registration in local executive bodies.

2. Concession of the right of claim by an equity holder under a contract on equity participation in housing construction is allowed only after payment of the contract price or simultaneously in the event of the consent of the authorized company with the transfer of the debt to a new equity holder in accordance with the civil legislation of the Republic of Kazakhstan in a non-cash form.

3. Assignment by a shareholder of the right of claim under the contract on shared participation in housing construction shall be allowed from the moment the contract on shared participation in housing construction is registered in the local executive body at the location of a multi-apartment residential building until the parties sign the transfer act on the transfer of a share in the constructed multi-apartment residential building.

4. In the event of the death of an equity investor - individual or declaring him deceased - the rights and obligations under a contract on equity participation in housing construction are transferred to the heirs in accordance with the civil legislation of the Republic of Kazakhstan.

Article 14. Rights and obligations of equity holder

1. An equity holder has the right:

- 1) to receive information specified in Article 22 of this Law;
- 2) to concede the right of claim under the contract on equity participation in housing construction in the manner determined by the civil legislation of the Republic of Kazakhstan;
- 3) to require the proper performance by the authorized company of the terms of the contract on equity participation in housing construction.

2. An equity holder is obliged:

- 1) to transfer money to the bank account of the authorized company in a non-cash form in accordance with the contract on equity participation in housing construction;
- 2) timely comply with the terms of the contract on equity participation in housing construction;
- 3) take a share in a multi-apartment residential building in availability of a registered act of acceptance of a multi-apartment residential building into operation within thirty calendar

days from the moment the shareholder receives a notification from an authorized company with signing of a contract on the transfer of a share;

4) in case of changing the actual address and (or) other personal data, notify the authorized company in writing about it within thirty calendar days.

Article 15. Execution of obligations under the contract on equity participation in housing construction

1. Payment by the equity holder of the value of the share provided for by the contract on equity participation in housing construction is made by making payments in the terms specified by the contract to the bank account of the authorized company.

2. The obligations of the shareholder shall be considered fulfilled from the moment of full payment of the cost of a share and its acceptance in a multi-apartment residential building in accordance with the contract on shared participation in housing construction.

3. The obligations of the developer and (or) an authorized company on transfer of a share in a multi-apartment residential building shall be considered fulfilled from the moment the multi-apartment residential building is put into operation, the parties sign a contract on transfer of a share in a multi-apartment residential building, as well as taking measures in accordance with the housing legislation of the Republic of Kazakhstan.

4. The obligations of the contractor (general contractor) under the guarantee period shall be considered fulfilled after he/she fulfills his/her obligations on elimination of violations for compliance with the construction indicators of a multi-apartment residential building, specified in the design and estimate documentation and in the contract on shared participation in housing construction that have arisen during the guarantee period.

5. The risk of accidental loss or accidental damage to a share in an erected multi-apartment residential building prior to its actual transfer to a shareholder shall be borne by an authorized company. After the actual transfer of a share in a multi-apartment residential building, the risk of accidental loss or accidental damage passes to the shareholder.

Footnote. Article 15 as amended by the Law of the Republic of Kazakhstan dated 26.12.2019 No. 284-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 16. Responsibility of the parties to a contract on equity participation in housing construction

1. An authorized company is responsible for ensuring control over the progress and quality of construction.

2. The authorized company, on the conditions, specified in the contract on shared participation in housing construction, shall dispose the money, contributed for construction of a multi-apartment residential building and bear responsibility, provided for by the legislation

of the Republic of Kazakhstan or the contract on shared participation in housing construction, for:

- 1) the targeted and timely use of money of equity holders;
- 2) compliance with the requirements of regulatory and technical documents for construction of the facility;
- 3) quality of used building materials, structures, equipment and maintenance of construction and installation works;
- 4) the deadline for commissioning the facility;
- 5) transfer of a share to the equity holder.

3. The authorized company is responsible for selection of the contractor (general contractor) through the submitted qualification requirements.

4. The authorized company must notify the equity holder by mail that the next payment has not been made. Such notification should be in the form of a registered letter with a list of enclosures or handed to the equity holder personally on receipt.

To recognize the refusal of an equity holder to fulfill contractual obligations, it is necessary to have at least three notifications of non-payment with a total period of delay of payment (payments) of at least three months.

5. In the event of failure to make a regular payment by an equity holder and the absence of a written request within the period specified in paragraph 4 of this article, according to the terms of the contract on equity participation in housing construction, the authorized company has the right to take one of the following decisions:

- 1) to receive financing (money) from a third party to pay such a share, with subsequent assistance in processing the assignment of the right of claim (with the return of the money deposited to the previous equity holder);
- 2) to terminate the contract and sell the share to a third party and, within three months from the date of acceptance of a multi-apartment residential building into operation, to return the money received from the sale to the shareholder or to ensure their storage in the bank account until the previous shareholder applies for them.

Article 17. Transfer of a share in a multi-apartment residential building

1. The authorized company shall be obliged to transfer to the shareholder his/her share in the constructed multi-apartment residential building no later than the term, provided for by the contract on shared participation in housing construction.

2. Transfer to the shareholder of his/her share in a multi-apartment residential building shall be carried out by the authorized company after signing the acceptance act of the constructed multi-apartment residential building into operation.

3. After signing the acceptance act of the constructed multi-apartment residential building into operation, the authorized company shall have the right to fulfill ahead of schedule its obligations on transfer of shares in a multi-apartment residential building to shareholders.

4. The authorized company shall be obliged to send the shareholder a letter on completion of construction of a multi-apartment residential building in accordance with the contract on shared participation in housing construction and on readiness of the share for transfer, as well as to warn the shareholder about the need to accept the share and about the consequences of the shareholder's inaction, provided for by the contract on shared participation in housing construction. The letter must be sent by registered mail and with notification of receipt of a letter by the addressee or delivered to the shareholder personally on receipt.

5. A shareholder, who has received a written notification from an authorized company about the completion of construction of a multi-apartment residential building and readiness of a share in a multi-apartment residential building for transfer shall be obliged to proceed to its acceptance within the period specified in the contract on shared participation in housing construction or, if such a period is not established, within ten working days from the date of receipt of the specified notification.

6. An equity holder who during the acceptance of the work discovered deviations from the design and estimate documentation and the contract on equity participation in housing construction has the right to demand from the authorized company, in the period agreed upon by the parties, to eliminate the identified shortcomings.

Chapter 5. Order and features of equity participation in housing construction

Article 18. The procedure for issuing a permit to attract money of shareholders when organizing the shared housing construction by participating in a second-tier bank project or after erecting the frame of a multi-apartment residential building

1. Equity holders' money is attracted by the authorized company on the basis of the permission of the local executive body of the region, the city of republican significance, the capital, the district, the town of regional significance for attracting the money of equity investors.

2. A permit to attract money of equity holders is issued in accordance with the Law of the Republic of Kazakhstan "On Permissions and Notifications".

3. In order to obtain permission to attract money of equity holders, the developer and the authorized company send an application to the local executive body with copies of documents confirming compliance with the requirements specified in paragraphs 1 and 3 of article 9 and paragraphs 1 and 3 of article 10 of this Law.

4. The local executive body, within eight working days from the date of receipt of the documents, specified in paragraph 3 of this Article from the developer and the authorized company, shall be obliged to issue a permit to attract money from shareholders or send a written reasoned refusal.

5. The reason for refusal to issue a permit by the local executive authority to attract the money of equity investors is the non-compliance of the developer and (or) the authorized

company with one or more of the requirements set forth in paragraphs 1 and 3 of Article 9 and paragraphs 1 and 3 of Article 10 of this Law.

6. Developer and authorized company shall have the right to appeal a reasoned refusal to issue permission to use the money of equity holders in the manner prescribed by the laws of the Republic of Kazakhstan.

7. The developer and the authorized company shall have the right to re-apply for a permit to attract the money of the equity holders after elimination of the remarks indicated in the reasoned refusal.

8. Permission to attract money from shareholders shall be issued by the local executive body for the entire period of construction of a multi-apartment residential building prior to its commissioning.

9. Suspension of the operation and forfeiture of the permission to attract money of equity investors are carried out in accordance with the Law of the Republic of Kazakhstan "On Permissions and Notifications".

Footnote. Article 18 as amended by the Law of the Republic of Kazakhstan dated 25.11.2019 No. 272-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.06.2020 No. 351-VI (shall come into effect from 01.07.2021).

Article 19. Features of organizing equity participation in housing construction

1. The risk of an accidental rise in the cost of construction and installation works of a multi-apartment residential building shall be borne by the contractor (general contractor), exception for the case provided for in paragraph 2 of this Article.

2. The contractor (general contractor) has the right to demand revision of the estimate, if for reasons beyond its control, the cost of construction and installation works exceeded the estimate by at least ten percent. In this case, the risk of an accidental rise in the cost of construction and installation works in an amount exceeding 10 percent of the estimate is borne by the authorized company.

3. Payment of payments for the works performed by the contractor (general contractor) under the work contract in accordance with the design and estimate documentation shall be made from the bank account of the authorized company on the basis of acts of performed works, confirmed by the engineering company.

Advance payment of payments to a contractor (general contractor) under a work contract shall be allowed in accordance with the design and estimate documentation for construction when using shareholders' money from the bank account of an authorized company, subject to one of the following conditions:

1) should not exceed twenty-five percent of the value of a work contract with an authorized company in the presence of a second-tier bank guarantee for the return of the advance payment, which is a guarantee of proper performance of obligations of the contractor (general contractor);

2) no more than ten percent of the amount of a work contract with an authorized company without security.

Subsequent payment of payments for the works performed by the contractor (general contractor) shall be made in the manner prescribed by Article 20 of this Law.

4. The use of shareholders' money shall be carried out by an authorized company for the construction of a multi-apartment residential building, taking into account the requirements provided for in Article 20 of this Law.

5. The owner of the unfinished construction is an authorized company.

6. Civil-legal transactions with unfinished construction for other obligations of the developer and the authorized company, except for attraction of a bank loan and obtaining a guarantee from the Unified Operator, are prohibited.

7. During the guarantee period, the contractor (general contractor), the developer and the authorized company shall guarantee the preservation of the quality of indicators of a multi-apartment residential building, specified in the design and estimate documentation, and possibility of operating a multi-apartment residential building in accordance with contract on shared participation in housing construction.

8. The developer and the authorized company are obliged to conduct the audit of the annual financial statements.

9. The authorized company shall be obliged to sell a unit of area of the share in a multi-apartment residential building not lower than the cost, determined by the ratio of the design cost to the total area of a multi-apartment residential building.

10. The developer for the obligations of the authorized company shall bear subsidiary liability to equity holders.

11. Failure to fulfill or improper fulfillment by an authorized company of obligations to complete the construction of a multi-apartment residential building provided for in Articles 9 and 10 of this Law shall be a violation of the term for acceptance into operation of a multi-apartment residential building. A three-fold extension of the construction period shall be allowed for three months each from the period, specified in the design and estimate documentation of the construction object.

Footnote. Article 19 as amended by the Law of the Republic of Kazakhstan dated 02.04.2019 No. 241-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 26.12.2019 No. 284-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 20. Ensuring the targeted use of money in shared participation in housing construction

1. In order to ensure the targeted use of money allocated for construction of a multi-apartment residential building, the authorized company and the contractor (general contractor) shall be obliged to open no more than one bank account in only one second-tier bank.

2. The use of money from the bank account of the authorized company shall be carried out in accordance with the terms of the bank account contract for financing purposes in accordance with paragraph 8 of this Article on the basis of acts of performed works, confirmed by the engineering company.

3. When carrying out activities on organization of shared participation in housing construction by obtaining a guarantee of the Unified Operator, a bank account shall be used for placement money of an authorized company in accordance with subparagraphs 3) and 4) of paragraph 3 of Article 8 of this Law, money received in payment of shares in a multi-apartment residential building, borrowed funds (if any) and spending money in accordance with the acts of performed works according to the design and estimate documentation.

4. When carrying out activities on organization shared participation in housing construction by participating in a second-tier bank project, a bank account shall be used for placement and use of money, received as payment for shares in a multi-apartment residential building, and spending money in accordance with the acts of performed works according to the design estimate documentation.

5. When carrying out activities on organization shared participation in housing construction by attracting money from shareholders after construction of the frame of a multi-apartment residential building, a bank account shall be used for placement of money from an authorized company, received as payment for shares in a multi-apartment residential building, and spending money in accordance with the acts of performed works according to the design and estimate documentation.

6. An authorized company shall ensure accounting of money in a bank account in terms of :

- 1) own money contributed in accordance with the requirements of this Law;
- 2) money received as payment for shares in a multi-apartment residential building, including in terms of receipts from each shareholder;
- 3) borrowed funds (if any) provided for the purpose of financing the construction of a multi-apartment residential building.

7. The basis for crediting a shareholder's money towards payment of shares in a multi-apartment residential building shall be a concluded contract on shared participation in housing construction.

8. Compliance with the targeted spending of money by an authorized company shall be ensured by their use for:

- 1) construction and installation works, project management costs, designer and technical supervision;
- 2) payment of commission on bank accounts and remuneration for servicing a bank loan, as well as repayment of part of the principal debt on a bank loan by transferring an amount not exceeding the total amount of paid construction and installation works for construction of

a multi-apartment residential building, and the actual balance of money on the bank account of an authorized company minus project costs;

2-1) payment of advances in accordance with paragraph 3 of Article 19 of this Law;

3) other expenses of an authorized company associated with construction of a multi-apartment residential building and implementation of the project, in the amount of not more than ten percent of the project cost, including expenses for advertising, maintenance of management personnel, communal services, telecommunication services, expenses associated with renting an office, expenses for the production of technical passports for quality control, laboratory tests, payment of taxes and other mandatory payments to the budget, payments of mandatory pension contributions and mandatory professional pension contributions, contributions for mandatory social health insurance to the Social Health Insurance Fund.

9. Monetary mutual settlements between the authorized company and its contractor (general contractor) prior to acceptance of a multi-apartment residential building into operation shall be carried out exclusively through a bank account.

10. If any misuse of shareholders' money is detected, the engineering company shall inform the Unified Operator, the local executive body or a second-tier bank within three working days (depending on the method of organizing shared participation in housing construction).

11. The money of an authorized company placed in the bank account cannot be the subject of other civil transactions of the developer or an authorized company, not provided for by this Law, with third parties prior to acceptance of a multi-apartment residential building under construction for operation.

Footnote. Article 20 as amended by the Law of the Republic of Kazakhstan dated 02.04.2019 No. 241-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).: dated 26.12.2019 No. 284-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 21. Features of activities of engineering companies in the field of equity participation in housing construction and certified experts

1. Activities of an engineering company in the field of equity participation in housing construction and certified experts are carried out in accordance with the rules of rendering engineering services in architectural area, town-planning and construction activities.

2. An engineering company monitors the progress of construction, the targeted use of equity investors' money, the verification of the amount of work performed within the project cost.

3. An engineering company shall be obliged to submit a monthly report in accordance with the form approved by the authorized body on the results of monitoring the progress of

construction of a multi-apartment residential building to the Unified Operator, a second-tier bank or the local executive body (depending on the method of organizing shared participation in housing construction).

4. The heads of an engineering company and certified experts for rendering engineering services for construction project should not be affiliated with the management of the Unified Operator, the developer, the authorized company, the contractor (general contractor) of this construction project.

5. The management of an engineering company and certified experts are obliged to observe confidentiality, official and commercial secrets, unless otherwise stipulated by the legislative acts of the Republic of Kazakhstan.

6. A certified expert is prohibited:

1) to perform engineering services if a certified expert took part in development of design and estimate documentation for this construction project;

2) to be in labor, financial or other dependent relations with the developer or an authorized company and with other participants of equity participation in housing construction.

7. An engineering company must comply with the following requirements:

1) to have experience in rendering engineering services for the commissioned construction projects in the Republic of Kazakhstan and providing at least three customer feedback on the engineering services rendered;

2) to have at least three certified experts for the right to render engineering services in architectural area, town-planning and construction activities;

3) to employ a specialist to monitor the targeted use of money.

8. The engineering company has the right to insure its civil liability for fulfillment of obligations, determined by agreement of the parties.

Article 22. Information provided by an authorized company

1. The authorized company provides the following information in the state and Russian languages for familiarization to individuals and legal entities that applied for the purpose of concluding a contract on equity participation in housing construction:

1) about the name and legal address of the developer and the authorized company;

2) about availability of a certificate confirming state registration (re-registration);

3) about availability of a guarantee contract concluded with the Unified Operator and its basic conditions in the case of organization of equity participation in housing construction by obtaining a guarantee from the Unified Operator;

4) on availability of a permit from the local executive body to attract money from shareholders in the event of organizing shared participation in housing construction by participating in a second-tier bank project or by attracting money from share holders after construction of the frame of a multi-apartment residential building;

5) on the projects for construction of multi-apartment residential buildings implemented by the developer;

6) on the object of construction of a multi-apartment residential building, intended for construction; 7) about availability of a document confirming the relevant right of an authorized company to a land plot.

2. Information about construction object includes:

1) notice of the beginning of construction and installation works;

2) indication of the location and description of the facility in accordance with the design and estimate documentation;

3) information on the timing of its completion;

4) basic information about the contractor (general contractor), including the name, experience in this area, the availability of a license, information on the commissioned construction objects, where he acted as a contractor (general contractor).

3. The authorized company on its own Internet resource places information about:

1) the name of the object and its location;

2) the progress of construction, confirmed by a photo-report, updated at least once a month;

3) the timing of completion of construction.

4. In the event that the authorized company provides incomplete and unreliable information established by this Law, the equity holder has the right to apply to the court with a claim to recognize the contract on equity participation in housing construction as invalid.

5. Information subject to the provision in accordance with this Article must comply with the requirements of the Law of the Republic of Kazakhstan "On Languages in the Republic of Kazakhstan".

Footnote. Article 22 as amended by the Law of the Republic of Kazakhstan dated 29.12.2021 No. 94-VII (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 23. Features of advertising associated with organization of equity participation in housing construction

The developer and (or) an authorized company shall have the right to advertise a project for construction of a multi-apartment residential building, indicating that the contracts on shared participation in housing construction shall be concluded only after conclusion of a contract on provision a guarantee with the Unified Operator or issuance of a permit to attract money from shareholders by the local executive body. The advertisement must contain information about the developer and the authorized company.

The text of an advertisement must comply with the requirements of the Law of the Republic of Kazakhstan "On Languages in the Republic of Kazakhstan". The translation of the content of an advertisement must not distort its main meaning.

Footnote. Article 22 as amended by the Law of the Republic of Kazakhstan dated 29.12.2021 No. 94-VII (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Chapter 6. Unified Operator

Article 24. Unified Operator

1. One of the activities of the Unified Operator shall be the provision of guarantees for the completion of the construction of an apartment building.

The Unified Operator, along with the activities and operations provided for by the Law of the Republic of Kazakhstan "On Mortgage of Immovable Property", shall have the right to carry out the following activities:

guaranteeing mortgage loans (mortgage housing loans), rent payments, contributions to the accumulation of housing construction savings;
guaranteeing loans (credits) for the acquisition of a share in an apartment building;
financing and implementation of investment projects;
property lease (rent) of real estate, including one with the right of subsequent redemption;
activities entrusted to the Unified Operator by the legislation of the Republic of Kazakhstan on architectural, urban planning and construction activities, other regulatory legal acts of the Republic of Kazakhstan and the charter.

2. Financing and logistical support of the activities of the Unified Operator shall be carried out at the expense of guarantee fees and other sources not prohibited by the legislation of the Republic of Kazakhstan.

Footnote. Article 24 as amended by the Law of the Republic of Kazakhstan dated 09.06.2020 No. 341-VI (shall come into effect from 01.07.2020).

Article 25. Objectives and functions of the Unified Operator

1. The main objectives of the Unified Operator are:

1) ensuring the stability and effectiveness of the system of guaranteeing the equity participation in housing construction;

2) protection of the rights and legitimate interests of equity holders in the event of a guarantee event;

3) other objectives performed to stimulate the market of the shared housing construction.

2. To fulfill the main objectives, the Unified Operator exercises the following functions:

1) considers the application of the developer and his authorized company for organization of equity participation in housing construction by obtaining a guarantee from the Unified Operator;

2) guarantees completion of construction of a multi- apartment residential building, its acceptance into operation upon the occurrence of a guarantee case and transfer of shares in a multi-apartment residential building to shareholders;

3) analyzes the reports of the engineering company;

4) forms and manages the reserve intended for settlement of guarantee cases, at the expense of guarantee fees;

5) interacts with participants of equity participation in housing construction and local executive bodies on the issues within the competence of the Unified Operator;

6) exercises other functions to implement the objectives defined by this Law.

Article 26. Rights and obligations of the Unified Operator

1. The Unified Operator shall have the right:

1) to have unimpeded access to the territory of the construction site with prior notification to the authorized company not later than one working day prior to the expected date of the site visit in compliance with the requirements of the legislation of the Republic of Kazakhstan on occupational safety and health;

2) to request from a developer, an authorized company any information on construction of a multi-apartment residential building, including on the progress of construction, concluded contracts on shared participation in housing construction, and other information necessary for implementation of functions, determined by this Law;

3) to coordinate changes in design and estimate documentation;

4) to carry out the functions of a temporary manager in accordance with the legislation of the Republic of Kazakhstan on rehabilitation and bankruptcy in relation to the developer - the debtor;

5) to organize the sale of unrealized shares in a multi-apartment residential building, as well as voting shares (participation shares in the authorized capital) of an authorized company to reimburse their expenses upon completion of construction;

6) to refuse to conclude a contract on granting a guarantee on the reasons specified in paragraph 3 of Article 32 of this Law;

7) to make claims to the developer, an authorized company on reimbursement of expenses of the Unified Operator spent for completion of construction of a multi-apartment residential building, upon occurrence of a guarantee case, after acceptance of a multi-apartment residential building into operation;

8) to exercise other powers that do not contradict the objectives and tasks defined by this Law.

2. The Unified Operator shall be obliged to:

1) to organize measures on completion of construction of a multi-apartment residential building upon occurrence of a guarantee case;

2) conclude a guarantee contract with the authorized company and the developer if the application is approved;

3) in accordance with the civil legislation of the Republic of Kazakhstan to conclude a contract with an engineering company to provide engineering services in equity participation in housing construction to ensure control over the progress of construction, compliance with state standards in architecture, urban planning and construction areas, as well as the targeted use of money in accordance with the design and estimate documentation;

4) keep record of guarantee contracts;

5) notify the local executive body about the facts of violation of the requirements of the legislation of the Republic of Kazakhstan on equity participation in housing construction by a developer, an authorized company and an engineering company, not later than one working day from the moment of revelation of the violation;

6) to post information on the progress of construction of a multi-apartment residential building, including the reports from an engineering company, on its own Internet resource;

7) publish monthly the register of guarantee agreements on its own Internet resource in the state and Russian languages in accordance with the procedure determined by the internal documents of the Single Operator;

8) to post on its Internet resource the documents that determine the process of issuing a guarantee;

9) to assess the estimate documentation at the stage of documents verification for the construction project of a multi-apartment residential building.

Footnote. Article 26 as amended by the Law of the Republic of Kazakhstan dated 27.12.2019 No. 290-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.12.2021 No. 94-VII (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 27. Statute of the Unified Operator

Footnote. Article 27 is excluded by the Law of the Republic of Kazakhstan dated 09.06.2020 No. 341-VI (shall come into effect from 01.07.2020).

Article 28. Requirements for the Unified Operator

1. For the purposes of ensuring financial stability, the Unified Operator complies with the capital adequacy ratio established by the normative legal act of the authorized body.

2. With the expected change in the value of the standard specified in paragraph 1 of this article, in the direction of deterioration and achievement of the threshold value, the authorized capital of the Unified Operator should be increased in accordance with the procedures established by the legislation of the Republic of Kazakhstan.

3. The Unified Operator forms a system of risk management and internal control.

4. The Unified Operator has software and hardware and other equipment necessary to carry out its core business.

5. The Unified Operator for calculating the capital adequacy ratio uses:

- 1) own capital of the Unified Operator;
- 2) contingent liabilities (obligations under the issued guarantees), weighted by the degree of risk.

6. The capital adequacy ratio is calculated as the ratio of own capital to contingent liabilities, weighted by the degree of risk.

7. The threshold value of the capital adequacy ratio should not be less than 0.05.

8. The consolidated financial statements prepared in accordance with the International Financial Reporting Standards are used to calculate the capital adequacy ratio.

9. The Unified Operator is obliged to audit the annual financial statements.

Article 29. Reserve of the Unified Operator for settlement of guarantee cases

1. To carry out activities on ensuring guarantees for completion of construction of multi-apartment residential buildings provided for by this Law, the Unified Operator shall form a reserve for settlement of guarantee cases at the expense of:

- 1) a part of guarantee fees of authorized companies;
- 2) money received by the Unified Operator in the order of satisfaction of claims for payments upon completion of construction of multi-apartment residential buildings;
- 3) a part of the investment income received from investing the assets of the Unified Operator into financial instruments (deposits, securities and other tools).

2. The reserves for settlement of guarantee cases can be used solely for the purpose of executing expenses related to fulfillment of obligations of the Unified Operator under guarantee contracts.

3. Requirements for formation, calculation methodology and the targeted size of the reserve for settlement of guarantee cases are established by normative legal acts of the authorized body.

4. In case of insufficient funds of the reserve for settlement of guarantee cases, the Unified Operator is entitled to use the funds of the authorized capital.

Article 30. Guarantee fee

1. Guarantee fee is paid as a lump sum.

The guarantee fee is established in accordance with the Methodology for determining the amount of the guarantee fee, approved by the authorized body.

2. The guarantee fee paid by an authorized company in accordance with the guarantee contract is not refundable.

3. In case of a rise in the cost of the project cost due to the increase in the cost of construction and installation work following the results of a comprehensive non-departmental expertise of design and estimate documentation for ten percent or more, during the validity of the guarantee contract, the amount of the guarantee fee is subject to revision.

Chapter 7. Features of organization of equity participation in housing construction with participation of the Unified Operator

Article 31. Application for conclusion of a guarantee contract

1. The developer and the authorized company to carry out construction of a multi-apartment residential building by attracting money from shareholders shall apply to the Unified Operator with an application for concluding a guarantee contract. Consideration of an application shall be carried out by the Unified Operator in accordance with the procedure for consideration of documents on the project for construction of a multi-apartment residential building for conclusion of a contract on provision of a guarantee, approved by the authorized body and posted on the Internet resource of the Unified Operator.

2. The application is attached with:

- 1) constituent documents of the developer and authorized company;
- 2) documents confirming the developer's compliance with the requirements of paragraph 1 of Article 8 of this Law;
- 3) documents confirming fulfillment by the authorized company of the requirements provided for in paragraph 3 of Article 8 of this Law;
- 4) document on payment of the commission for consideration of the application;
- 5) notification on the beginning of construction and installation works;
- 6) plan for financing the construction project.

Article 32. Consideration of an application

1. Consideration of the application by the Unified Operator includes the following stages:
1) checking completeness of the submitted documents for the construction project of a multi-apartment residential building;

2) adoption of a decision on conclusion or refusal to conclude a contract to provide a guarantee.

2. The decision of the Unified Operator on conclusion or a reasoned refusal to conclude a guarantee contract is based on the results of checking the submitted documents.

3. The Unified Operator must refuse to conclude a guarantee contract on one or more of the following reasons:

- 1) non-compliance of the developer, the authorized company with the requirements established by this Law;

2) untimely conclusion by the developer, by the authorized company of the contracts specified in paragraph 5 of this article, with the Unified Operator;

3) the existence of outstanding tax arrears and other mandatory payments to the budget in the amount of more than 6-fold monthly calculated index as of the filing date of the application;

4) availability of court decisions to initiate proceedings for rehabilitation or bankruptcy against the developer, the authorized company;

5) based on the results of checking the documents for the construction project of a multi-apartment residential building in the manner approved by the authorized body.

4. The term for consideration of the application shall not exceed twenty working days from the date of the application of the developer and the authorized company for the conclusion of an agreement on the provision of a guarantee. If there are comments on the application under consideration, the Unified Operator shall have the right to send the relevant documents for revision with a deadline for eliminating comments no more than five working days. In this case, the period for consideration of the application is suspended.

5. When the Unified Operator adopts a decision to conclude a guarantee contract on provision of engineering services in shared housing construction, a land plot pledge agreement together with an object of unfinished construction specified in subparagraph 1) of paragraph 3 of Article 8 of this Law, with an authorized company, a pledge agreement of voting shares (shares in the authorized capital) of an authorized company, a contract for trust management of voting shares (shares in the authorized capital) of an authorized company with the developer must be concluded before conclusion of the guarantee contract.

At the same time, a contract on shared participation in housing construction, design and estimates documentation of a project for construction of a multi-apartment residential building, as well as a work contract shall be integral parts of the contract on guarantee provision.

Footnote. Article 32 as amended by the Law of the Republic of Kazakhstan dated 09.06.2020 No. 341-VI (shall come into effect from 01.07.2020).

Article 33. Verification of documents for the construction project of a multi-apartment residential building

1. Verification of documents for the construction project of a multi-apartment residential building shall be carried out in order to assess the developer and the authorized company for compliance with the requirements, established by Article 8 of this Law.

2. Verification of documents for the construction project of a multi-apartment residential building includes financial and legal assessment, the procedure for which is established by this Law.

3. The financial assessment provides for:

1) analysis of financial statements, calculation of key indicators that characterize the financial condition of the authorized company and the developer;

- 2) analysis of sources of financing for the project;
- 3) analysis of the adequacy of the pricing policy of an authorized company;
- 4) comparison of the executed works on the unfinished object in accordance with the state normative documents in architecture, town-planning and construction areas.

A comparison of the work performed on the acts with the actual work performed on the site is made after the measurement of the performed work volumes and inspection by the engineering company of the assembled structures for defects without laboratory studies;

- 5) assessment of completeness of the necessary work to complete construction;
- 6) analysis of justification of the budget (estimate) of construction: the volume and cost of construction.

4. Legal assessment and establishment of the presence (absence) of legal, reputational risks for the project are conducted by:

- 1) review of title documentation of the developer and the authorized company;
- 2) review of documents on corporate governance, decisions of collegiate management bodies and the main powers of attorney of the authorized company;
- 3) analysis of title documentation to the property of an authorized company, proposed for transfer to trust management in accordance with Article 35 of this Law;
- 4) analysis of the legality of formation of the authorized capital of the authorized company, information about the participants (shareholders), information about the affiliated persons of the authorized company;
- 5) availability of necessary permits for the authorized company and contractor (general contractor);
- 6) analysis of the basic provisions of a construction contract of the authorized company with the contractor (general contractor);
- 7) presence or absence of court proceedings of a property nature;
- 8) study of the information about the authorized company and the developer from officially recognized sources about the existence (absence) of tax debts and other mandatory payments to the budget.

Article 34. Guarantee contract

1. A guarantee contract is concluded in writing on the basis of a standard contract approved by the authorized body and is considered concluded from the moment of payment of the guarantee fee.

2. Obligatory conditions of the guarantee contract in accordance with the provisions of this Law are:

- 1) the object of the guarantee is the subject of the contract;
- 2) the terms of the guarantee;
- 3) the amount of the guarantee fee;
- 4) guarantee case and liability under guarantee;

- 5) the procedure for fulfillment of obligations by the Unified Operator;
- 6) the rights and obligations of the Unified Operator;
- 7) the rights and obligations of the developer, the authorized company;
- 8) responsibility of the developer, authorized company.

3. The concluded guarantee contract is the basis for attracting the money of the equity holders.

Article 35. Securing obligations under a guarantee contract

1. In order to ensure fulfillment of obligations of the developer and the authorized company under the guarantee contract, the Unified Operator concludes a contract with the authorized company on the pledge of the land plot together with the object of unfinished construction, as well as with the developer, the pledge contract of voting shares (shares in the authorized capital) of the authorized company in accordance with the civil legislation of the Republic of Kazakhstan.

2. For the purpose of the Unified Operator's fulfillment of obligations under the guarantee contract, the Unified Operator concludes with the developer a contract of trust management of voting shares (shares in authorized capital) of an authorized company with a suspensive condition. Such a trust management contract takes effect in case of occurrence of a guarantee event.

3. The provisions arising from the pledge contracts arising under this Law shall be governed by the provisions of the Civil Code of the Republic of Kazakhstan, taking into account the specifics set up by this Law.

4. In accordance with this Law, an encumbrance, foreclosure within the activities of the developer, the authorized company may not be imposed on the property which is the subject to the trust management contract with voting shares (shares in the authorized capital) with a suspensive condition.

5. The property, which is the subject of a trust management contract with a suspensive condition in accordance with this Law, cannot be included in the property mass in the event of the developer's insolvency in accordance with the Law of the Republic of Kazakhstan "On Rehabilitation and Bankruptcy".

Footnote. Article 35 as amended by the Law of the Republic of Kazakhstan dated 27.12.2019 No. 290-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 36. Procedure for interaction with the Unified Operator

1. The guarantee contract concluded with the Unified Operator is the basis for conclusion by an authorized company of a contract on equity participation in housing construction with equity holders and attraction of money of equity holders.

2. To ensure implementation of engineering services, the Unified Operator concludes a contract with an engineering company that meets the requirements of paragraph 7 of Article 21 of this Law.

3. Is excluded by the Law of the Republic of Kazakhstan dated 26.12.2019 No. 284-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

4. Is excluded by the Law of the Republic of Kazakhstan dated 26.12.2019 No. 284-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Footnote. Article 36 as amended by the Law of the Republic of Kazakhstan dated 26.12.2019 No. 284-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 37. Guarantee case

1. A decision of the Unified Operator on possible occurrence of a guarantee event is made based on the results of:

- 1) monitoring the construction of a multi- apartment residential building;
- 2) monthly and other reports of the engineering company;
- 3) information received from an authorized company, an authorized body;
- 4) a written request of the equity holders (equity investors).

2. Upon receipt of information on possible occurrence of a guarantee event, the Unified Operator:

1) checks the information on non-fulfillment or improper fulfillment of obligations by an authorized company for construction of a multi-apartment residential building no later than ten working days from the date of receipt of the information;

2) sends a request to the developer, the authorized company to clarify this information within a period not later than three working days from the date of receipt of the information.

The developer, the authorized company shall provide explanations, objections (if any) with supporting documents within a period not later than three working days from the date of receipt of the relevant request of the Unified Operator.

3. In case of establishing the fact of occurrence of the guarantee event, the Unified Operator within three working days makes a decision to recognize as a guarantee case one or more of the following cases:

1) violation of the term for acceptance of a multi-apartment residential building into operation. A three-fold extension of the construction period shall be allowed for three months each from the period specified in the design (design and estimate) documentation of the construction object;

2) use of money in violation of the requirements of Article 20 of this Law, not reimbursed by the developer and / or the authorized company, the contractor (general contractor) to the bank account of the authorized company within fifteen working days from the date of establishment of the specified fact by the engineering company;

3) recognition of the developer as bankrupt in accordance with the Law of the Republic of Kazakhstan "On Rehabilitation and Bankruptcy" for activities not related to the construction of a multi-apartment residential building.

4. In case of a positive decision on recognizing the facts of non-fulfillment or improper fulfillment of obligations by the authorized company for construction of a multi-apartment residential building as the guarantee case, the Unified Operator shall notify of occurrence of the guarantee case no later than the next working day after the decision is made. The notification shall be carried out by posting the text of the corresponding announcement on the Internet resource of the Unified Operator and in other mass media.

Footnote. Article 37 as amended by the Law of the Republic of Kazakhstan dated 27.12.2019 No. 290-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 38. Procedure for the Unified Operator's fulfillment of obligations under the guarantee contract

1. The Unified Operator carries out the following activities:

1) notifies the authorized body, local executive body and participants of equity participation in housing construction about the occurrence of the guarantee event;

2) decides to replace the contractor (general contractor) by terminating the existing construction contract and entering into an agreement with another contractor (general contractor);

3) notifies the developer and the authorized company of the entry into force of the trust management contract with voting shares (shares in the authorized capital) of the authorized company;

4) notifies the second-tier bank in case of a decision to replace the management of the authorized company with the attachment of supporting documents on the appointment, as well as documents with samples of signatures, copies of identity documents of persons authorized to sign payment documents when performing transactions related to maintaining the bank account of the authorized company in the second-tier bank, in accordance with the trust management contract of voting shares (shares in the authorized capital) of the authorized company;

5) finances completion of construction of a multi-apartment residential building at the expense of the Unified Operator on the terms of their payment, urgency and repayment in case of insufficient own funds of the authorized company;

6) carries out further monitoring of the progress of completion of construction of a multi-apartment residential building, its acceptance into operation and transfer of shares in the multi-apartment residential building to shareholders.

2. In the case of full reimbursement of the costs of the Unified Operator from the funds of the authorized company, the trust management contract with voting shares (shares in the

authorized capital) of the authorized company is terminated in accordance with the requirements of this Law.

3. In case of insufficient funds of the authorized company to reimburse the funds (costs) of the Unified Operator upon completion of construction of a multi-apartment residential building, the developer shall be obliged to reimburse them for subsidiary liability by concluding a contract on the procedure for repayment of debts to the Unified Operator after confirmation of their validity by the conclusion of an independent audit company.

4. In case of insufficient funds of the developer to reimburse the funds (costs) of the Unified Operator upon completion of construction of a multi-apartment residential building under the contract on the procedure for repayment the debts after performing the actions provided for in paragraphs 1, 2, 3 of this Article, the Unified Operator shall initiate a bankruptcy procedure for the developer in accordance with the legislation of the Republic of Kazakhstan on rehabilitation and bankruptcy.

5. The requirements of the Unified Operator for improper execution of the guarantee contract are not subject to the action limitation period.

Chapter 8. Final provisions

Article 39. State control and supervision in equity participation in housing construction

1. State control and supervision in the field of equity participation in housing construction shall be carried out in the form of inspection.

2. An audit is carried out in accordance with the Entrepreneurship Code of the Republic of Kazakhstan. Other forms of state control and supervision are exercised in accordance with this Law.

Article 40. The order of application of this Law

1. Relations falling within the scope of this Law, which arose before its enactment, are regulated by the civil legislation of the Republic of Kazakhstan.

Relations associated with the construction of a multi-apartment residential building through 100% financing by second-tier banks on the basis of an open credit line and have arisen before the entry into force of this Law, shall be regulated by the legislation of the Republic of Kazakhstan on shared participation in housing construction, which was in force before the entry into force of this Law.

2. Attraction of money from individuals and legal entities associated with the right of claim arising from individuals and legal entities for shares in multi-apartment residential buildings, which at the time of attracting their money were not put into operation in the manner established by the legislation of the Republic of Kazakhstan on architectural, urban planning and construction activities, after the entry into force of this Law shall be allowed only on the basis of a contract on shared participation in housing construction.

Footnote. Article 40 as amended by the Law of the Republic of Kazakhstan dated 26.12.2019 No. 284-VI (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 41. Responsibility for violation of legislation of the Republic of Kazakhstan on equity participation in housing construction

1. Violation of the legislation of the Republic of Kazakhstan on equity participation in housing construction entails responsibility established by the laws of the Republic of Kazakhstan.

2. Persons attracting money from individuals and legal entities for equity participation in housing construction in violation of the requirements established by this Law shall be liable in accordance with the laws of the Republic of Kazakhstan.

Article 42. The procedure for enactment of this Law

1. This Law shall come into force six months after the day of its first official publication.

2. Recognize as invalid from the date of enactment of this Law:

The Law of the Republic of Kazakhstan dated July 7, 2006 "On Equity Participation in Housing Construction" (Bulletin of the Parliament of the Republic of Kazakhstan, 2006, № 16, art. 101; 2007, № 2, art. 18; 2009, № 17, art. 79; № 23, art. 100; 2010, № 5, art. 23; 2011, № 6, art. 50; № 11, art. 102; № 12, art. 111; 2012, № 15, art. 97; № 21-22, art. 124; 2013, № 14, art. 72; 2014, № 1, art. 4; № 10, art. 52; № 19-I, 19-II, art. 96; № 23, art. 143; № 24, art. 144).

*President of the
Republic of Kazakhstan*

N. NAZARBAYEV