

The establishment of real estate enterprise with foreign investment

According to the Catalogue for Guidance of Foreign Investment Industries, foreign investors, individuals and organizations are permitted to establish real estate enterprises in the form of Chinese-foreign equity joint ventures, Chinese-foreign contractual joint ventures or wholly foreign-owned enterprises.

Procedures for examination and approval of real estate enterprises with foreign investment:

Investors shall obtain the rights to use the land by auction from Shanghai Municipal of Housing, Land and Resource Administration or the competent administrative department in the region of the project to be developed, and then sign the contract for the land transfer. (Foreign investors, individuals and other organizations with the relevant economic strength may participate in the auction). Then the investors shall apply to industrial and commercial administrations for the registration of pre-approval of enterprise name and get the pre-approval notification

Real estate enterprises engaging in development of commercial houses with total investment of less than \$ 10 million shall submit the feasibility study report, contract, and articles of association of the real estate enterprises with foreign investment to People's government (district or county level) in the region of the enterprise to be established.

(1). The investors of the real estate enterprise to be established should submit the following documents to competent department of SMERT:

1. Application form for the establishment of real estate enterprise with foreign investment;
2. Certification of registration (copy) of both Chinese and foreign investors, bank certificates of credibility, and certificates of legal representatives(copy);
3. The approval of the administrative department of the Chinese investor (Not including those without administrative directing department);
4. Feasibility study report made by all the joint ventures;
5. The contract and articles of association of the real estate enterprise to be established signed by legal representative of the investors;
6. Approval notification of the name of the enterprise to be established;
7. The list of the board members of the real estate enterprise to be established and the letters of appointment of the board members by all the joint ventures;
8. The contract of the land transfer
9. Other documents and materials required by the approval department

(2). Investors of hotel enterprise should submit the following documents to Shanghai Foreign Investment Committee:

1. The application form for establishment of hotel enterprise with foreign investment
2. The project proposal as well as the approval of the project listing
3. The approval of the administrative department of the Chinese investor (Not including those without administrative directing department);

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4. Approval notification of the name of the enterprise to be established;
5. Feasibility study report made by all the joint ventures;
6. The contract and articles of association of the hotel enterprise to be established signed by legal representative of the investors;
7. Certification of registration (copy) of both Chinese and foreign investors, bank certificates of credibility, and certificates of legal representatives(copy);
8. The list of the board members of the hotel enterprise to be established and the letters of appointment of the board members by all the joint ventures;
9. The contract of the land transfer
10. Other documents and materials required by the approval department

The original documents should be submitted unless there is a note showing the requirement for copies. If the documents are not signed by legal representatives, the power of attorney of legal representative should be submitted.

For real estate enterprises with total investment of more than \$ 10 million (including \$10 million), real estate enterprises with total investment of less than 10 million dollars engaging in development of office buildings or hotels, or Chinese investors being district enterprises, foreign economic commission in the region (district or county) of the enterprises shall conduct the pre-approval and then submit the application to Shanghai Foreign Investment Committee for examination and approval. Certification for the Certificate of Approval for the Establishment of Enterprises with Foreign Investment shall be issued to those qualified appliers.

For projects with municipal enterprise being the major Chinese investor, the controlling group of the municipal enterprise may conduct the pre-approval and then submit the application to Shanghai Foreign Investment Committee for final approval. Certification for the Certificate of Approval for the Establishment of Enterprises with Foreign Investment shall be issued to those qualified appliers.

The applier should then go the formalities of industrial and commercial registration and get the business license within 30 days after the issuance of the certificate and then collect the business license.

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