

**Government of Dubai
Lands Department**

Draft Law No. 8 of 2007

**Concerning Real Estate Development Trust
Accounts in the Emirate of Dubai**

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concerning Real Estate Development Trust Accounts in the Emirate of Dubai

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

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

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

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

Do hereby issue the following Law:

Chapter One
Definitions and General Provisions

Article 1

This Law shall be named "Law No. 8 of 2007 concerning Real Estate Development Trust Accounts in the Emirate of Dubai"

Definitions

Article 2

In the application of this Law, unless the context requires otherwise, the following terms and expressions shall have the meanings as set out opposite each of them:

The Emirate:	The Emirate of Dubai
Department:	The Land Department
President:	The President of the Department
Director:	The General Director of the Department
Register:	The Register prepared at the Department to register developers
Trust Account:	The bank account of the real estate project in which the amounts received from off-plan units buyers or the project financiers will be deposited.

Trustee: The financial institution or bank approved by the Department to manage a trust account.

Competent Authorities: The government authorities which grant licenses to developers.

Developer: A natural or corporate person licensed to buy and sell real properties for development purposes. The term shall include the master developer and sub-developer.

Real Estate Development: The construction of multi-storey buildings or complexes for residential or commercial purposes.

Unit: An allocated part of the property sold by the developer to third parties.

Article 3

The provisions of this Law shall apply to developers who sell off-plan units in real estate development projects in the Emirate and, in consideration, receive payments from buyers or financiers.

Article 4

A special register to be named "The Developers Register" shall be prepared at the Department. The names and particulars of developers licensed to carry out real estate development activities in the Emirate shall be recorded in the said register. No developer may carry out the said activities unless it is registered in the said register and licensed by the competent authorities pursuant to regulations issued in this regard.

Article 5

After obtaining a written permit from the Department, a developer may advertise in local or foreign media or participate in local or foreign exhibitions to promote selling off-plan units in the Emirate. The Director shall issue the resolutions as required to regulate the requirements for advertising in the media or participating in exhibitions.

Chapter Two Creating a Trust Account

Article 6

- A developer wishing to sell off-plan units must apply to the Department to open a trust account. The application should be accompanied with the following:

1. Trade license and Dubai Chamber of Commerce and Industry membership certificate;
 2. Title deed of the plot to be developed, if any;
 3. A copy of the contract between the master developer and the sub-developer;
 4. Architectural designs and preliminary engineering plans approved by the competent authorities and the master developer;
 5. A financial statement of the costs, revenues and expenditure of the project certified by a chartered auditor;
 6. An undertaking by the developer to commence the project construction works after obtaining the master developer's approval to sell off-plan units;
 7. the sale contract form between the developer and the buyer.
- The Department shall issue its approval to the developer to open a trust account if the above documents are provided, otherwise the Department shall require the developer in writing to complete the documents or provide the required information.

Article 7

The trust account shall be created under a written agreement between the developer and the trustee. Under the said agreement, the amounts paid by buyers of off-plan units or received from the financiers shall be deposited in a special account to be opened in the name of the real estate project.

The said agreement shall set out the terms for managing the account, the rights and obligations of the contracting parties and other terms and conditions. A copy of the contract shall be lodged with the Department.

Article 8

The Department may add a note regarding the purchase agreement between the master developer and the sub-developer in the record of the plot owned by the master developer. Further, the buyer of an off-plan unit may apply to the Department to add a note regarding the purchase agreement entered into with the sub-developer in the record of the plot on which the project is to be constructed.

Article 9

Subject to Article 4 of Law No. 7 of 2006 concerning real property registration in the Emirate of Dubai, sole proprietorships or companies may obtain a license from the competent authorities to carry out real estate development in the Emirate in accordance with the requirements and regulations in this regard.

Chapter Three Management of the Trust Account

Article 10

1. A trust account shall be opened in the name of the project and shall be used only for the purposes of developing the real estate project. The amounts deposited in the said account may not be attached in favor of creditors of the developer.
2. A developer carrying out several projects should open an independent trust account for each such project.

Article 11

The Department shall prepare a register includes names of financial institutions and banks who act as trustees. A trustee should be proficient in managing trust accounts. The agreement between the Department and the trustee shall set out the duties of the trustee and the terms under which the trust account is managed.

Article 12

The trustee should provide the Department with periodical statements of the revenues and expenditure of the trust account. The Department may assign an auditor to audit the statement and data. Further, the Department may at any time require the trustee to provide it with such information or data as it may deem necessary.

If the Department finds any violation of the provisions hereof or the executive regulations issued hereunder, it shall advise the trustee of such violation in writing and request it to rectify the same within a specific period of time and advise the Department in writing of such rectification.

Article 13

The depositors or their representatives may inspect the accounting records related to them and request copies thereof. Representatives of the official authorities may also inspect the records and obtain copies thereof.

Article 14

If the developer mortgages the project in order to obtain a loan from financing institutions or companies, the developer should deposit the mortgage amount in the trust account, and such amount shall be disposed of in accordance with the provisions of this law.

Article 15

1. A trustee should withhold at least 5% of the trust account deposits after the developer obtains the completion certificate. Such withheld amounts shall be paid to the developer only one year after the units are registered in the names of the buyers and title deeds are issued in their names.
2. In the events of unforeseen circumstances resulting in the non-completion of the project, the trustee should, after consultations with the Department, take measures as required to maintain the interests of depositors.

Chapter Four Penalties

Article 16

Any person who:

1. deliberately provides the competent authorities with inaccurate documents or data in order to obtain a license to carry out real estate development activities;
2. knowingly offers for sale units in unreal real estate projects;
3. embezzles, illegitimately uses or spends payments made to him for real estate development purposes;
4. an auditor who deliberately prepares false report regarding the result of auditing the financial position of the developer, or deliberately hides material information in such report;
5. a consultant who knowingly certifies false documents in relation to the real estate project; or
6. a developer who deals with a broker who is not registered in the real estate developers register in accordance with the provision of regulation 85/2006 concerning real estate brokers in the Emirate of Dubai

shall be punished by imprisonment for no less than one month and a fine, or either punishment.

Article 17

A developer shall be de-registered in the following events:

1. if it is declared bankrupt;

2. if it fails to commence the construction works within 6 months from the date of the approval granted to it to sell off-plan units without having an acceptable excuse;
3. if the license granted to it by the competent authorities is cancelled;
4. if it commits a violation under Article 16.2, 3 or 4 hereof; or
5. if it commits a violation of the laws and regulations regulating the real estate activity in the Emirate.

Chapter Five Final Provisions

Article 18

Existing developers at the time the provisions of this Law become effective should adjust their positions to comply with the provisions hereof within 6 months from the date this Law is published in the Official Gazette. The Department may extend the said period as it may deem fit.

Article 19

The Department may charge administrative fees against the services provided under this Law.

Article 20

Any provision or procedure in any law or regulation shall be cancelled to the extent the same is in conflict with the provisions hereof.

Article 21

The President shall issue the resolutions required to implement the provisions hereof.

Article 22

This Law shall be published in the Official Gazette and come into force from the date of its publications.

**Mohammed bin Rashid Al Maktoum
Ruler of the Emirate of Dubai**

Issued in Dubai on this day _____ 2007

Corresponding to _____ 1428 A.H.

An amended copy of the draft law, prepared on 14.03.2007

