

CY Japan Legal Update

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Real Estate

Proposed Amendment to the Act on Specified Joint Real Estate Ventures Decided on by Cabinet

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The Bill to Partial Amendment to the Act on Specified Joint Real Estate Ventures was decided on by Cabinet on March 3, 2017. “Specified joint real estate venture” is a scheme for making of investment in real estate under an agreement specified under the Act such as a partnership agreement (“SJREV Contract”) by and among the investors (“Partner Investor”) and a professional such as a real estate company (“SJREV Operator”) which becomes the operating body conducting sale and lease of real estate and allocates such profits to Partner Investors.

The Amendment Act will (1) establish the small specified joint real estate venture to make it easy to use the specified joint real estate venture system for the revitalization and utilization of vacant houses and shops which are increasing nation-wide, (2) create a better environment for crowdfunding for regional revitalization, and (3) relax regulations for businesses for the Special Investors (see below) (so called “pro” investors) and establish a new category of businesses for the Qualified Special Investors (see below) (so called “super-pro” investors).

1. Establishment of the small specified joint real estate venture

Under the current law, to conduct a specified joint real estate venture, the permission of the competent minister or prefectural governor is required and, as one standard for the permission, it is required to have a certain amount of capital (100 million yen in the case of a SJREV Operator executing a SJREV Contract with a Partner Investor).

However, this requirement may be a high bar for regional business operators. So that regional real estate business operators can widely enter into revitalization business for vacant houses and shops, the Amendment Act establishes the new category “small specified joint real estate venture” which is a business with total investment under a certain amount (e.g., 100 million yen) and with registration subject to renewal every five years, and reduces the capital requirement for SJREV Operators conducting only a small specified joint real estate venture to 10 million yen

2. Creation of better environment for crowdfunding

With the current law, when SJREV Operator executes a SJREV Contract with a Partner Investor, it must explain the matters concerning the allocation of income to such investor by delivering documents prior to the formation of SJREV contract and at the time of formation. As well, SJREV Operator must periodically deliver a paper report on asset management situation to the Partner Investor.

However, as the use of crowdfunding is increasing as a fund raising method for businesses promoting regional revitalization, it is necessary for the current specified joint real estate venture, for which only actual paper transactions were anticipated, to allow for the procedures to be taken via the Internet.

Consequently, the Amendment Act will provide for being able to take procedures on the Internet for the document delivery to Partner Investors. As well, it is provided that the SJREV Operator who executes a SJREV Contract via the Internet shall publish its trade name, etc. on its website, provide for business management systems for the properly performing business concerning the fund raising via Internet, and make the list of business managers available for inspection.

3. Review of provisions to promote the formation of good quality real estate stock

The Amendment Act has been reviewed to promote the formation of good quality real estate stock focusing on growth areas such as tourism (hotels, etc.).

With the current law, SJREV Operator must execute SJREV Contracts based on SJREV General Terms and Conditions. SJREV Operator must submit such SJREV General Terms and Conditions that satisfy the standards under the laws and regulations to the competent minister or prefectural governor to obtain permission for SJREV. As well, the current law does not particularly provide for a category where the Partner Investors are only institutional investors.

With the Amended Act, the SJREV business for Special Investors (who are persons specified as one who has professional knowledge and experience in relation to investment in real estate, so-called professional investors) is exempted from executing a SJREV Contract under the general terms and conditions and need not review the general terms and conditions at the time of applying for permission.

Furthermore, the Amendment Act creates a special exception for the notification system if only Qualified Special Investors (who are persons recognized as particularly having specialized knowledge and experiences related to real estate investment among special investors such as institutional investors) are Partner Investors.

In addition, for a special business (which, under certain requirements, may be conducted with only notification by an SPC which delegates its real estate transactions and solicitation of execution of SJREV Contracts to a business operator with a specific type of SJREV license), where the SPC executes the SJREV Contracts only with Special Investors under the current law, the Amendment Act permits to expand Partner Investors to general investors as long as not conducting residential land development or building construction work above a certain scale.

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