

Nurmukhankyzy D.  
**Features of legal regulation of investment activity in the field of land relations**

This article considers the legal regulation of investment activity in the field of land relations and land resources. The questions of the introduction or improvement of land and investment legislation, with a view to the rational use of land resources and land use for profit, and the national legislation of the Republic of Kazakhstan in this area requires changes that can create powerful market incentives and encourage investment in this sector.

**Key words:** legal regulation, land, investment activity.

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Нұрмуханқызы Д.  
**Жер қатынастары аумағындағы инвестициялық қызметін құқықтық реттеу ерекшеліктері**

Бұл мақалада жер қатынастары және жер ресурстарын пайдалану аумағындағы инвестициялық қызметті құқықтық реттеу мәселелері қарастырылған. Жер және инвестициялық заңнамаларды жетілдіру және өзгерту, жер ресурстарын нысаналы пайдалану және жерді пайдалану мақсатында пайда алу мәселелері қарастырылған, сонымен қатар осы аумақтағы Қазақстан Республикасының ұлттық заңнамаларына өзгерту енгізу қажет және ол нарық жағдайында инвестиция аумағын кеңейтеді және мықты нарықтық қозғалыс береді.

**Түйін сөздер:** құқықтық реттеу, жер ресурстары, инвестициялық қызмет.

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Нурмуханқызы Д.  
**Особенности правового регулирования инвестиционной деятельности в области земельных отношений**

В данной статье рассматриваются вопросы правового регулирования инвестиционной деятельности в области земельных отношений и использования земельных ресурсов. Рассматриваются вопросы введения или усовершенствования земельного и инвестиционного законодательства, с целью рационального использования земельных ресурсов и использование земель с целью получения прибыли и, национальное законодательство Республики Казахстан в данной области требует изменений, что может создавать мощные рыночные стимулы и поощрять инвестиции в данной отрасли.

**Ключевые слова:** правовое регулирование, земельные ресурсы, инвестиционная деятельность.

**FEATURES OF LEGAL  
REGULATION  
OF INVESTMENT  
ACTIVITY IN THE FIELD  
OF LAND RELATIONS**

The richest land is concentrated in the Republic of Kazakhstan. The welfare of society and of individuals depends largely on how they are used and protected. Unfortunately, as before as now in the land sector fared no better, and the land issue remains in Kazakhstan one of the most acute. The legislative, executive and judicial power still can not part with non-existent a representation of the earth. Despite the tremendous changes in the socio-economic sphere, requires serious land reform, it often try to the extent possible, preserve the old order of land use. Moreover, its incompatibility with the market economy is not taken into account. To understand where these views are, refer to our recent past and see the ways in which we are now trying to reform land tenure.

Earth (ground) - the earth's surface, including soil, considered as a component of the natural environment, the means of production in agriculture and forestry, spatial material basis of economic and other activities.

At the same time the land is the subject of property relations that develop in public circulation, and in which the land has the status of real estate. In accordance with the Civil Code of the Republic of Kazakhstan a special kind of real estate called land.

According to Article 1 of the Land Code of the Republic of Kazakhstan land fund is divided into: agricultural land; land settlements (cities, towns and villages); land for industry, transport, communications, for the needs outer space activities, defense, national security and other non-agricultural purposes; lands of specially protected areas, land recreation, recreational, historical and cultural purposes; forest lands; lands of water fund; reserve lands [1].

Fundamental to the regulation of investments in land have the following laws:

1. The Law on Investment [2].
2. Land Code of the Republic of Kazakhstan
3. The Civil Code of the Republic of Kazakhstan

Historically, the relationship to the property, as the dominant economic system of society underwent numerous changes due to the desire to overcome the contradiction between the constraints involved in the production of resources and increasing needs of the people. In search of ways to maximize the efficiency of the productive forces of

society periodically transformed form of ownership of the means of production and the mechanism of public participation in the management of the economy [3].

Central to social and economic relations have always been the relationship of land ownership.

Earth is a unique natural resource. It is the only place of human existence, and the only major factor in the organization of its productive forces involved in the creation of all other products and goods. Limitations and irreplaceability this resource is an objective necessity of social regulation law and land use conditions.

However, in a market economy takes the form of land and goods can be an object of property transactions, which results in a greater or lesser extent can harm the interests of other people and society as a whole.

Last believes that part of the income that is able to generate a plot of land by virtue of its location, natural features and enhancements available, not due to the economic activity of the owner, might be a source of satisfaction of social needs and withdrawn in the form of rent payments. This, in turn, requires the monitoring cost characteristics land as means of production and investment targets.

And finally, the land is a basic component of any real estate. According to article 117 of the Civil Code of the Republic of Kazakhstan, the real estate (immovable property) includes land, buildings, structures, perennial plants and other property, closely linked to land, ie. E. The objects, move them without disproportionate damage to their purpose [4].

The main features of land as an investment object in modern Kazakhstan are as follows:

- The land is always at the peak of demand - according to statistics, every year the demand for land is increasingly growing.

- The land as a resource provides ample opportunities for the use and application: for personal use (as long as no solution profitable to sell – you can use an asset for life and leisure), as a resource for business development, in order to further increase the cost (land development).

- The land has an unlimited shelf life; do not lose any quality or properties.

- Land provides the minimum investment risks - the owner of land ownership rights guaranteed to receive income from its sale.

- Every year the earth has ever greater liquidity in emergencies acquired asset is capable of rapid implementation and rapid return on investment.

- The land is a finite resource and is subject to an excessive surge in demand, allows obtaining ultra-high yield.

- The land does not require much maintenance costs, monitoring and maintenance.

- The land is one of the leaders in the field of investment capital intensity ratio, profitability.

- The land is one of the most common objects of inheritance - it does not require the attention of a resource that ensures stable high income.

- Land as an investment object is capable of development - a quality resource management for three years risk-free operations allows at least double the investment.

- Land ownership is guaranteed by law and undeniable - the legal purity of easily testable.

- Land as private property is inviolable - legal documents issued by Justice of Kazakhstan.

From the above it can be concluded that the earth is one of the most reliable sites for investment.

According to the Land Code of RK, land and land use rights in the form of state grants available to a legal entity of the Republic of Kazakhstan, is carrying out the investment project, in accordance with the laws of the Republic of Kazakhstan on investments [1].

Decision of the local executive body of the region, the city of republican status, capital, district and city of regional significance to provide land as in-kind grant is accepted within its competence to provide land based on the decision of the authorized body on investments.

State grants – the land plots allocated for temporary grant of land use for legal entity of the Republic of Kazakhstan for the investment project with subsequent gratuitous transfer of ownership or land use in the manner prescribed by the Land Code and the laws of the Republic of Kazakhstan on investments.

According to B. Zhamishev's opinion, it would be better to improve the mechanism for the provision and use of agricultural land, including increasing the term of the lease of land for foreign person's envisaged amendments to the Land Code and the Law «On Investment» [5].

According to these amendments it is assumed: the provision of agricultural land to foreigners, stateless persons and foreign legal entities for a period of over 10 years in the case of the implementation of the strategic investment contract, which is the object of investment land, located on the lands of agricultural purpose, before the payback period of the contract. At the same time we introduce a new concept of «land, as an investment» - investments in agricultural production with the use of the land and set separate criteria to the content of investment strategic projects, which is the object of investment

land located on agricultural lands. At the same time, the provision of agricultural land for those implementing such investment projects will be carried out as investment preferences.

It should be noted, that is not the most favorable innovations in the bill in relation to foreign investors. If the earlier article 13 of the Law «On investments» (as of 09.01.2012 years) provides for exemption from customs duties, provision of state grants and certain benefits for investment projects: [6]

- For legal entities implementing investment strategic projects in the manner prescribed by the tax legislation of the Republic of Kazakhstan, benefits from the land tax and property tax;

- Industrial benefits for entities implementing investment projects in strategic localities with low socio-economic development - as of 06.12.2014, the above benefits were abolished (excluded).

As part of the development of priority economic activities in the Republic of Kazakhstan Act, as amended from 12.06.2014g. It was introduced a new concept of «priority investment projects.» Priority investment projects The Government provided additional benefits or preferences (Article 18. N. 4 of the Law «On Investment»):

- 1) Reduction in the corporate income tax by 100 percent;

- 2) Application of the coefficient 0 to the land tax rates;

- 3) The calculation of the property tax at the rate of 0 percent to the tax base. For priority projects of the law provides investment subsidies – compensation of up to 30% of actual costs for construction and assembly works and purchase of equipment excluding value added tax and excise taxes on the basis of supporting documents. The result will allow investors involved in priority projects is guaranteed to save, and the state to increase its economic potential.

To implement costly investment projects, investors tend to attract foreign labor, with the reservation – «in the case of foreign labor should be preserved jobs for Kazakhstan personnel.

Today, the legislative acts provided – «not hiring» foreign labor, and training of local personnel.

The changes did not affect the reservation, which is guaranteed, could protect the investor in case of deterioration of the situation with regard to changes in legislation.

Plots of land can be utilized for the purposes of subsoil use (for work on the production, combined exploration and production, the construction and (or) the operation of underground facilities not related to exploration and (or) production), construction

(reconstruction) of pipelines, facilities processing of oil and gas facilities for the use of renewable energy sources.

The main problems of the Kazakhstan legislation that hinder investment:

- low level of protection of property rights, including the spread of so-called land shares, which can not be due to the many constraints to fully perform the functions of the property; inefficient activity of public authorities, in the part of land management (provision, land acquisition, taxation, rents)-low level of development of land resources of the country, including those due to the lack of infrastructure, which reduces the cost of land and leads to its irrational use;

To attract investment objective must be linked with solving specific problems of transition to innovative development of the economy.

The lack of legal regulations and consequently the risks for investors and users.

Disadvantages-land legislation regarding appraisal activities do not allow to draw a land full commercialization of intensive use it as an asset of enterprises, and in the end, eventually, increase the investment attractiveness of the earth.

Land resources are included as part of the natural resources of the national wealth can not be a real asset in a market economy, if they are the basis for- tax determination, foreclosure, etc. only on the cadastral value of which does not fully reflect the current market situation, the land and related areas (primarily in the investment market.

Assessment of the situation of recent years has shown that, despite certain stability in the economy and the social sphere, the problem of improving the land relations are still relevant. Their decision depends on investment and sustainable development of many industries and sectors. Research has shown, in order to attract investment to achieve is possible due to the decision-following problems:

- It is necessary to complete the purchase of land privatized enterprises; while minimizing the financial burden on enterprises, but at the same time to form on the balance sheet at market value of land assets;

- create conditions for the implementation of land mortgage; while paying attention not only to the development of the mass of the mortgage, but also to test new directions - including target land mortgage within socially significant, innovative, and so other projects;

- continue to develop the legal framework in the field of land relations in order to create clear and understandable rules and institutions of land use,

aimed at solving economic problems, not only for the extraction of immediate benefit. Formation of civilized land relations constrained by conservation land in legal conflicts and civil law. This also applies to the issue of land zoning

– implement modern information technology in the completion of the inventory of the estate.

At the present time, researching of attractiveness of agricultural land showed that of development of land on the possible use of the land factor for progressive changes in the structure of agriculture, including in favor of knowledge-intensive production and innovation. For this purpose, it is proposed to use a number of regulators. Particularly, a mechanism which in one way or another may stimulate increased demand for agricultural land market is preferential taxation of agricultural land until the complete liberation of agricultural products producers from land tax [7].

In the future, the policy of «greening» in the field of transport should be based on three interrelated principles:

– Exemption / reduction of unnecessary trips by combining land use planning and transport planning with the localization of production and consumption;

– Transition to more environmentally efficient modes of transport;

– Improving the use of technology and fuel to reduce their negative impact on the environment.

Among the necessary measures should include:

land use planning, to provide a compact or based backbone transport.

Creating a state of economic incentives for the introduction of energy efficient technologies by enterprises and modern equipment [8].

The improvement economic incentives for the use of renewable energy sources. Creating special financial instruments for investments in energy conservation, energy efficiency and development of renewable energy sources:

– Partial compensation of the state of interest rates on loans for energy efficiency projects;

– Providing public subsidies for energy saving projects of national importance;

– Cooperation with international financial institutions that finance energy efficiency programs;

– Active use of Kyoto mechanisms to finance energy efficiency projects.

Development and implementation of regulatory mechanisms and activities in the field of energy efficiency:

– Development and adoption of state energy standards;

– introduction labeling energy-using products and devices according to their level of energy efficiency;

– The introduction of state expert on energy efficiency in enterprises. Encouraging electricity consumers to save energy, consulting the public regarding energy conservation and efficiency.

## References

- 1 Land Code of the Republic of Kazakhstan dated June 20, 2003 № 442-II \ IS «Paragraph»
- 2 The law of the Republic of Kazakhstan dated January 8, 2003 № 373-II «On investments» \ IS «Paragraph»
- 3 Say SI Land Property Complex of Russia as an object of regulation \ «Real Estate and Investments. Legal Regulation» Number 2-3 (3-4), 2000
- 4 The Civil Code of the Republic of Kazakhstan (General Part), adopted by the Supreme Council of the Republic of Kazakhstan December 27, 1994, the Civil Code of the Republic of Kazakhstan dated July 1, 1999 № 409-I (Special Part) \ IS «Paragraph»
- 5 B. Zhamishev use of land in the Republic of Kazakhstan will be adjusted \ <http://www.nomad.su/>
- 6 Investment preferences upon investment in Kazakhstan, in the light of recent changes in legislation. \ [Http://kaz-consult.com/publikacii](http://kaz-consult.com/publikacii)
- 7 Hamza Jabir, Henry H.Mwinuka. Foreign direct investment and indigenous people's right over the land in Tanzania: law and practice \ Research paper \ Tumaini University, 2012
- 8 Allens - Legal Guide to Investment in Vietnam \ <http://www.vietnamlaws.com/>