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| APPROVED BY**CH. KHURELBAATAR**MINISTER OF FINANCE | APPROVED BY**TS. NYAMDORJ**MINISTER OF JUSTICE AND INTERNAL AFFAIRS |

**CONCEPT OF REVISED DRAFT LAW ON PROPERTY APPRAISAL**

**One. Reasonable basis and grounds for drafting legislation**

* 1. **Legal basis for drafting legislation**

A revised draft of legislation on property appraisal will be developed in accordance with Article 110 to amend the Law on Property Appraisal in accordance with Guidelines for Improving the Laws and Regulations of Mongolia through 2020, adopted by the annex to Resolution №11 (2017) by the State Great Khural; Article 5.2.11 on improving the content and relationship of legislation and legal documents by detecting and eliminating duplication and contradiction in legal acts, and applying an electronic legal database to develop draft laws of the Action Plan of the Government of Mongolia for 2016-2020, adopted by the annex to Resolution №45 (2016) by the Government of Mongolia; and in order to fulfil the objectives of the Extended Fund Facility (EFF) Agreement with the International Monetary Fund (IMF).

Although the Law on Property Appraisal adopted on January 21, 2010, by the State Great Khural authorizes property appraisal, since its legal framework is not consistent with rapidly evolving economic and business relations, and outdated compared to the Uniform Standards of Professional Appraisal Practice, it is necessary to revise the domestic legislation, introduce the Uniform Standards of Professional Appraisal Practice in line with the conditions of the country, clarify the controversial provisions of the Law, and specify some relations in detail.

Hence, in an effort to fully implement the Law on Property Appraisal, it appears necessary to define the criteria and requirements for individual appraisers and legal entities authorized to conduct appraisals; update the legal terms required; improve the ethics of appraisers; and enhance appraisers’ accountability, the quality of appraisal reports, and quality control systems.

**1.2 Practical needs and demands for drafting legislation**

Under the current Law on Property Appraisal, a license for property appraisal is issued only to those who are selected for tender, regardless of whether they perform appraisals or not. Currently, a certain number of licensed appraisers (14) conduct their operations as business entities.

As a consequence of reasons such as the interest of individuals or business entities to have their property appraised by a legal entity that is legally responsible and releases a proper appraisal report, free of errors, and of difficulties in monitoring the operations of appraisers, there is no regulation on making services available from a legal entity, or on terminating the operations of appraisers acting as a legal entity in the case of license suspension and/or revocation. Therefore, it is required to establish a more structured and organized system by issuing property appraisal licenses to legal entities engaged in appraisal operations and meeting certain requirements, in accordance with the Law on Licensing.

Furthermore, the requirements stated in the current Law on Property Appraisal for appraisers and bidders are considerably demanding; e.g., at least three years of appropriate experience in property appraisal is mandatory for approval. More flexible regulation is required by nullifying the provision above.

On the other hand, as the market economy further develops, more individuals and business entities are putting their property into economic circulation by transferring, selling, mortgaging, and settling debt, which means that the need for property appraisal is increasing. However, there is inadequate control over appraisers and state accounting inspectors, who have no understanding of the international standards, procedures, and methods of appraisal practices, and those who are not licensed to conduct appraisals are monitoring appraisers’ activities and the implementation of the Law on Property Appraisal. This may result in some consequences of doubt in property appraisal, severely affecting the interests of individuals and legal entities, and a startling increase in disputes over property appraisal.

 On account of the above legal and practical grounds, based on the general principle that a law should fully meet socio-economic requirements and be legally distinct, and fully cover the demands that arise to develop amendments to the Law on Property Appraisal in order to create possibilities to similarly understand the law, make it sound in its legal principles, and be applicable to practice.

**Two. General structure of the revised law, and its governing relations and scope**

Due to the upcoming revisions to the governing relations, scope, and content of the law; the amendment to over fifty percent of its total provisions; and changes to most parts of the law’s concepts; the amendments will be developed as a revised law, in accordance with Article 25.1.1 of the Law on Legislation. The revised law will be structured as follows:

 Chapter One of the revised law clearly states the purpose, scope, and definitions of terms in the law in line with international standards and Mongolian legislation.

 Chapter Two of the revised law describes the basis, principles, methods, and fees for property appraisal operations based on practical applications.

 Chapter Three of the revised law sets out the rights, privileges, and obligations of property appraisers, and the conditions for which an appraisal cannot be conducted.

Chapter Four of the revised law regulates the monitoring of the implementation of the law; issuing and revoking an appraiser’s certificate; and issuing, extending, suspending, and revoking a license to perform property appraisals.

 Chapter Five of the revised law specifies the structure, functions, and participation of a professional committee for property appraisals.

 Chapter Six of the revised law states that an inspection database for property appraisals and liability insurance for professional property appraisal institutions are required.

The following amendments will be made in the revised Law on Property Appraisal, in terms of its content:

1. The current Law on Property Appraisal states that a license issued to an appraiser can be extended, suspended, and/or revoked based on the recommendations and conclusions of professional institutions. This causes problems and difficulty with implementing the law and making decisions, as several professional institutions act in this field, and their recommendations and conclusions are often conflicting. In addition, the best practices of foreign appraisal institutions suggest that professional institutions should be responsible for translating and publishing international standards on appraisal practices, and for developing and releasing application definitions and advice. Therefore, the function of professional institutions will be revised in the amendments. In order to compensate for damages or losses caused to an individual due to an error in property appraisal, the revised law states that a legal entity that performs property appraisal must be covered by professional liability insurance.
2. The current Law on Property Appraisal states that a professional institution must establish a database for property appraisal. This provision will be revised and its implementation will be strengthened.
3. The provision of the current Law on Property Appraisal stating that an appraisal license is issued to those who selected for tender, regardless of whether or not they perform appraisal activity, will be revised, as a license should be issued only to a legal entity performing appraisal operations and meeting specific criteria and requirements, in accordance with the Law on Licensing.
4. Certain criteria and requirements, such as the founder(s) and CEO of a legal entity being an appraiser(s), and that a legal entity whose main business activity shall be performing appraisal operations shall employ a salaried appraiser(s), will be specified in the revised law.
5. Documents to be submitted for the issuance of a license and/or extending it, and procedures for suspending or revoking a license issued, will be specified in the revised law in accordance with the Law on Licensing.
6. The current Law on Property Appraisal does not regulate appraisal activities conducted by an independent appraiser in detail. The revised law will also state that certain cases, such as the appraisal of public property, and the privatization, sale, use, deduction, or withdrawal of state and/or local property, shall be performed by or involve a legal entity licensed for appraisal operation.
7. To strengthen and promote the participation and correlation of governmental and professional institutions, and appraisal legal bodies, in the matter of defining policies and making decisions about property appraisal, the revised law will specify how to establish a professional committee with the approval of the Cabinet member in charge of finance and the state budget. The professional committee will be in charge of the official translation of international standards, developing and reviewing application definitions and advice, monitoring the continuous education of appraisers, and discussing and resolving disputes related to appraisal activities.
8. The revised law will regulate the quality monitoring of legal appraisers, which is not included in the current Law on Property Appraisal. Under a new provision in the revised law, a central state administrative body will be in charge of developing a regulation on quality monitoring, getting it approved, and monitoring its implementation.
9. The revised law will specify the definition and provisions regarding an internal appraiser under the provision that the internal appraiser shall provide their employees with appraisals to be performed under the Uniform Standards of Professional Appraisal Practice.
10. Under the revised Law on Property Appraisal, if a founder and shareholder of a legal appraisal entity is a foreign organization, at least two-thirds of all appraisers must be Mongolian citizens, and at least one-third of its shares must be owned by Mongolian citizens and appraisers.

**Three. Potential socio-economic benefits of the revised law**

Revising and amending the law will result in eliminating and resolving problems and difficulties that may arise in the implementation of the law by revising redundant provisions and making the law more mutually transparent and applicable for appraisal entities and clients.

Adopting the revised law will not place a burden on the state or result in socio-economic consequences.

**Four. The relationship between the Constitution of Mongolia and the revised law, adopting additional laws, and amending and nullifying other laws**

**in connection with the implementation of the revised law**

The revised Law on Property Appraisal will be developed in compliance with the Constitution of Mongolia, the international treaties signed by Mongolia, and other laws and regulations; and in connection to the revised law, future legislation on repealing the Law on Property Appraisal, amendments to the Law on Infringement, amendments to the Law on Auditing, amendments to the Law on Licensing, amendments to the Law on Real Estate Tax, amendments to the Law on the Treasury Fund, and amendments to the Law on Forensic Science.