

# LAW OF GEORGIA ON STATE PROMOTION OF INVESTMENTS

## I CHAPTER GENERAL PROVISIONS

### Article 1. Purpose of the Law

This Law shall aim at the promotion of investments through the refinement of the procedures necessary for capital investments and conduct of industrial activities and through creation of additional legal regime.

### Article 2. The Scope of Law

1. This Law shall apply to any foreign and local investment, which will be made and utilized on the territory of Georgia.
2. This Law shall provide for special rules and additional promotional measures for the encouragement of special importance investments (25.07.2006 N3526).
3. The rights, guaranteed by this Law shall apply to any legal and natural person.

## II CHAPTER ENSURING THE STATE PROMOTION OF INVESTMENTS

### Article 3. National Investments Agency of Georgia

1. The state promotion of investments shall be ensured by the Government of Georgia (25.07.2006 N3526).
2. In the field of state promotion of investments the Government of Georgia shall be represented by the National Investments Agency of Georgia (hereinafter the "Agency") (25.07.2006 N3526).
3. The Agency shall be entitled to represent an investor in his relationship with the administrative authorities and other persons. To this end an agreement shall be made between the investor and the Agency, providing for the scope of representation. By virtue of the agreement made between the investor and the Agency, the Agency shall assist the investor in obtaining all the licenses and/or permits, necessary for the conduct of investment activities, also discharge other representative authorizations. The agency shall discharge the aforementioned powers on a paid-for basis, except for the cases involving special importance investments. The amount of fee for rendered services shall be specified by the Ministry of Economic Development of Georgia. Special importance investments shall be exempted from the payment of service fee (25.07.2006 N3526).
4. The representative powers of the Agency, guaranteed by this Law shall not restrict the investor in the accomplishment of his relationship with the administrative authorities personally or through some other representative.

#### **Article 4. Rights of an Investor (25.07.2006 N3526)**

1. An investor shall be entitled:
  - a) To request the issuance of any license/permit (including preliminary a license/permit) via the Agency;
  - b) To request the purchase of property and discharge of any procedures related thereto via the Agency;
  - c) To request any information, related to the issuance of a license/permit (including preliminary a license/permit) and purchase of property on his behalf; issues related with capital investments;
  - d) To enjoy the other guarantees, envisaged by the Georgian legislation.
2. The administrative authorities shall be required to cooperate with the Agency and the investor with a view to enjoying the rights guaranteed by this Law.

### **III CHAPTER**

#### **PRELIMINARY LICENSE AND PERMIT**

#### **Article 5. The Procedure of Issuance of a Preliminary License or/and Permit**

1. A preliminary license/permit is a right to conduct a certain activity/action for obtaining a license/permit granted to a person by an administrative authority on the grounds of an administrative law act under the condition of observance of the requirements of law. Certain timeframes may be provided for the observance of this condition. Any license/permit may be issued on a preliminary basis, except for: (25.07.2006 N3526)
  - a) a license for use;
  - b) a construction permit;
  - c) a license (permit) in the field of circulation of weapons and ammunition.
2. Any person shall be entitled to request the issuance of a preliminary license/permit.
3. For obtaining a license/permit, along with the documents envisaged by the Law of Georgia on Licenses and Permits, an applicant shall be required to provide the respective administrative authority with the preliminary design of the activity for the conduct of which he requests the license/permit. The preliminary design must be as detailed as possible, in order to make it possible to explicitly identify the terms and conditions (taking due account of the specific character of the activity the design may include the type of the activity, the amount of investments, schedule and categories; location, engineering processes, description and types of used equipment, the implementation schedule, also the other data at the discretion of the investor). The issuer of the license/permit shall be entitled to request the refinement of the preliminary design for the purpose of identification of the terms and conditions. This request must be reasonable and should not make it impossible to meet it. The timeframe provided for the refinement of the preliminary design shall not be less than 15 days. The applicant for a license/permit shall be entitled to submit the information under this Paragraph before the specified timeline.
4. The administrative authority shall be required to issue an administrative law act within timeframes specified by the Law of Georgia on Licenses and Permits. This act, along with the requisites, envisaged by the General Administrative Code of Georgia, must specify the terms and conditions for obtaining a license/permit and whenever required – the timeframes

for their meeting. The licensing/permit terms and conditions must be specified commensurate with the Georgian legislation and in such a manner as to allow for the assessment and monitoring of their observance.

5. A preliminary license/permit shall become legally valid only after the submission of the documents, certifying the factual circumstances of observance of licensing/permit terms and conditions, by the applicant. The certification shall be executed by the issuer of the license/permit through issuance of an administrative law act.
6. After the issuance of the preliminary license/permit, it shall be prohibited to amend the licensing/permit terms and conditions without a preliminary consent of the license/permit holder, provided the amended terms and conditions deteriorate the status of the investor. If the licensing/permit terms and conditions, envisaged by law have been changed after the issuance of an authorizing administrative law act, as a result of which the status of the investor has been deteriorated, it shall not apply to the license/permit holder for a period of 5 years following the issuance of a license/permit without a preliminary consent thereof. (25.07.2006 N3526)
7. The timeframes and procedure of issuance of a preliminary license/permit shall be specified by the Government of Georgia. (25.07.2006 N3526)

#### **Article 6. Purchase of State (Local) Property, Related with the Investments**

1. An investor shall be entitled to apply to a state (self-government) authority declaring his interest in purchasing the state (local) property (a land parcel, a building or a share (stocks)) or/and offering the conditions.
2. The authorized administrative authority shall be required to commence the implementation of the adequate measures for the privatization of state (self-government unit) property in accordance with Article 7 of this Law and commensurate with the procedure, provided by the legislation, except for the cases, when: (25.07.2006 N3526)
  - a) The property is not subject to privatization, by virtue of the law of Georgia or a different privatization procedure is provided for this property;
  - b) The investor need this property for purposes, which contradict the plan of development regulation or legal zoning or results in the violation of the integrity of the property;
  - c) The Government of Georgia has made a decision, envisage by Paragraph 4 of this Article.
3. When the property, requested by the investor is the part of the property, the privatization of which causes the violation of the integrity of the property, the decision-making administrative authority shall be entitled to refuse the commencement of privatization procedures only against the adequate substantiation. The integrity of the property may be violated when the investor requests the part of the property, the existence of a separate right on which will considerably diminish the economic value of the whole property or/and obstruct the targeted use of the remaining part of the property. In this case, the decision-making administrative authority shall be required to inform the investor about the whole property or a part thereof which may be privatized.
4. Only the Government of Georgia shall be entitled to make a decision on non-reasonability of the privatization of state (self-government unit) property. The Government of Georgia may make a decision on non-reasonability of the privatization of the property at its own initiative (with respect to state property) or on the grounds of the well-substantiated submission of the respective self-government unit (with respect to the property of a self-government unit) within a period of 1 month following the submission thereof. Non-delivery of the decision within these timeframes shall be regarded as the consent of the Government of Georgia. The decision on non-reasonability of the privatization of the property shall specify the validity period of the decision. (25.07.2006 N3526)

## **Article 7. Several Provisions of the Administrative Proceedings Related with the Purchase of Property**

1. The procedure of the adoption of a decision on the privatization of property shall be regulated by this Law and the Georgian legislation. (25.07.2006 N3526)
2. Following the submission of the application on the purchase of property the authorized state (local self-government) authority shall:
  - a) Declare the auction (or the auction with conditions) with the terms and conditions, offered by the investor within a period of 30 days;
  - b) Apply to the Government of Georgia on the resolution of the issue of direct sale of property via tender proceedings within a period 30 days, in the case of absence of the circumstances, envisaged by Article 8 of this Law;
  - c) Notify the investor, that the property is not subject to privatization, within a period of 15 days, in the case of absence of the grounds envisaged by Paragraph 2 of Article 6 of this Law;
  - d) Notify the investor about the submission within a period 15 days, in the case of existence of the submission envisaged by Paragraph 4 of Article 6 of this Law;
3. When the respective state (self-government unit) property is not registered in Public Registry or when the law envisages the implementation of other legal procedures, the timeframes, envisaged by Paragraph 2 (a) of this Article shall be calculated from the date of completion of the registration or/and other proceedings, the organization period of which shall not exceed 2 months. In urgent cases, this timeframe may be extended by the decision of the Government of Georgia. The investor must be notified about these circumstances not later than 14 days following the submission of the application (also the extension of the timeframes). (25.07.2006 N3526)
- 3<sup>1</sup>. The auction or the auction with conditions shall be declared at the initiative of the authorized administrative authority or the investor. When the investor requests the purchase of property under certain conditions, the authorized administrative authority shall be entitled to declare the auction or the auction with conditions. Upon making a decision on the declaration of the auction with conditions, the auction with conditions shall be declared on the essential conditions, offered by the investor. No such conditions may be specified, which is related to a specific natural or a legal person, gives him a pre-determined preference or otherwise makes it impossible for the other investors to participate in the auction. As a general rule, the number of conditions shall not exceed four. Any additional of special conditions may be specified under the consent of the Government of Georgia. (25.07.2006 N3526)
4. No such agreement shall be made, where the sale-purchase price of the land parcels is less than the nominal one.
5. In the case of delay with the timeframes, provided by this law or failure to substantiate the refusal to the purchase of property, the investor shall be entitled to apply to the Government of Georgia requesting the purchase of property. Within a period of 1 month following the request the Government of Georgia shall make a respective decision, envisaged by Paragraph 2 of this Article of Paragraph 4 of Article 6 of this Law. The requirements of this Paragraph shall apply only to state property and land resources under the ownership of a self-government unit. (25.07.2006 N3526)

## **Article 8. Direct Sale of Property (25.07.2006 N3526)**

1. The property may be alienated through direct sale, commensurate with the procedure, envisaged by the Georgian legislation. The decision on the direct sale of the property shall be made by the President of Georgia.
2. The procedure of direct sale of property, envisaged by this Article, shall apply to:
  - a) the state property;
  - b) land resources under the ownership of a self-government unit.
3. Direct sale of property (land resources) under the ownership of a self-government unit may be undertaken only on the grounds of the submission of a self-government unit.
4. Direct sale of property shall be executed:
  - a) Under definite terms and conditions;
  - b) On the grounds of competitive selection procedure;
  - c) Against the substantiation of the necessity of application of this form and under the condition of ensured publicity.
5. Direct sale of property shall be executed when:
  - a) There is multitude of conditions for capital investments;
  - b) The privatization conditions have specific character;
  - c) Conditions offered by the investors are alternative;
  - d) There are no pre-established evaluation criteria for the conditions;
6. The procedures of direct sale of property, envisaged by this Article shall commence upon the declaration of interest by the investor.
7. The Government of Georgia shall consider the proposals of the investors and make the decision on the implementation of respective measures with a view to conduct of competitive selection.
8. With a view to conduct of competitive selection the Government of Georgia shall make a decision on the property and respective conditions and publish it via national or/and international mass media and set timeframes for the declaration of interest, which, as a rule, shall not be less than 1 month. Whenever the delay may prejudice the state or/and public interests, the Government of Georgia may shorten these timeframes under the condition of ensuring the publicity through other means and notification of potential investors.
9. After the expiry of timeframes for the declaration of interests the Government of Georgia shall examine the filed applications and submit the substantiated decision to the President of Georgia on the direct sale of property through competitive selection procedure. The decision on the direct sale of property shall be made by the President of Georgia.
10. With a view to ensuring the observance of the conditions of property privatization in the case of direct sale of property through competitive selection procedure, the investor shall be required to produce a bank guarantee or deposit the equivalent of 5% of the value of the property to be privatized with the bank. When the amount of promised investments exceeds the value of the property to be privatized, the amount of the aforementioned deposit shall make 5% of the amount of promised investments. In the case of failure to observe the conditions this amount shall be transferred to :
  - a) the state budget – in the case of privatization of state property;
  - b) the budget of a self-government unit – in the case of privatization of property a self-government unit
11. The President of Georgia shall be entitled to make a decision on the direct sale of property without implementation of the measures, envisaged by Paragraphs 7 and 8 of this Article.

**IV CHAPTER**  
**TREATMENT PROMOTING SPECIAL IMPORTANCE INVESTMENTS**

**Article 9. Special Importance Investments**

1. An investor who intends to make an investment, the total amount of which exceeds 8 million GEL or which has the significant impact on the development of the economy and infrastructure of the country from functional and strategic points of view, shall be entitled to request the status of special importance for the investment he is going to make.
2. Except for the cases, envisaged by Paragraph 1 of this Article, the Government of Georgia shall be entitled to grant the status of special importance to the investments made in the highlands of Georgia, the total amount of which exceeds 2 million GEL or which has significant impact on the development of local economy and infrastructure from functional and strategic points of view.
3. The status of a special importance investment shall be granted by the decree of the Government of Georgia.

**Article 10. The Procedure of Granting the Status of a Special Importance Investment**

1. An investor may request granting of the status of a special importance investment before or after making thereof.
2. For granting the status, envisaged by this Law the investor shall submit the investment application to the Government of Georgia, which must be supplemented by the detailed plan of the implementation of the investment.
3. The investment application shall be examined by the ministry (ministries) or/and other administrative body (bodies) identified by the Government of Georgia not later than 1 month after its submission, on the grounds of which the Government of Georgia shall make a decision on granting the adequate status to the investment. This timeframe may be extended by the decision of the Government of Georgia under the motivated submission of the responsible ministry, identified by the respective decree of the Government of Georgia, about what the investor shall be duly informed. Non-issuance of the decree of the Government of Georgia within specified timeframes shall be regarded as refusal to granting the status of special importance to the investment.
4. Upon granting the status of special importance to an investment an agreement shall be made between the Government of Georgia and the investor, specifying the conditions of the investments. As agreed between the parties, the investment plan and agreement shall be subject to further amendments. The terms and conditions of the agreement shall be publicized. (25.07.2006 N3526)
5. From the point of granting the status of special importance to the investment, the investor shall be required to deposit the investment guarantee, totaling 2% of the investment, or the submission of a bank guarantee with a view to ensuring the discharge of obligations under the agreement. (25.07.2006 N3526)
6. The Agency shall be required to monitor the implementation of special importance investments on a regular basis and submit respective reports to the Government of Georgia. The reporting schedule shall be specified by the decree of the Government of Georgia. When so required, on the grounds of these reports the Government of Georgia shall make a decision on the implementation of additional measures for the promotion of special importance investments. (25.07.2006 N3526)

7. The Agency shall maintain the registry of special importance investments.
8. The Government of Georgia shall be entitled to provide for the detailed procedure of granting the status of special importance investment.

#### **Article 11. The Aspects of State Control over Industrial Activities in the Case of Implementation of Special Importance Investments (25.07.2006 N3526)**

1. In the case of implementation of special importance investments the investor shall be entitled to inform the Agency about state control undertaken with respect to the activities thereof. The Agency shall examine and provide the Government of Georgia with the information about the conduct of industrial activities in breach of the Law of Georgia on Entrepreneurs or the other circumstances obstructing the implementation of the investments.
2. For the discharge of the powers under Paragraph 1 of this Article the Agency shall be entitled to request the information from controlling authorities, except for classified data, directly envisaged by this Law.

#### **Article 12. Expiry of the Validity Period of the Status of Special Importance Investments**

1. The status of a special importance investment shall be valid for the period specified by the decree of the Government of Georgia.
2. The status of a special importance investment shall be cancelled when the investor fails to observe the terms and conditions of the agreement made commensurate with this Law. (25.07.2006 N3526)
3. The cancellation of the status of a special importance investment shall not result in the withdrawal of already issued licenses and permits (including preliminary licenses and permits). Any license/permit shall maintain its validity unless it is withdrawn commensurate with the procedure, envisaged by the Georgian legislation. (25.07.2006 N3526)
4. In the case of observance of the terms and conditions of the agreement the guarantee amount, envisaged by Article 10 of this Law shall be returned to the investor without delay. (25.07.2006 N3526)
5. In the case of cancellation of the status of a special importance investment the guarantee amount, envisaged by Article 10 of this Law shall be transferred to the state budget.

#### **Article 13. Some Powers of Supreme State Authorities (25.07.2006 N3526)**

1. In the capital of Georgia, in the capitals of the Autonomous Republics and on the recreational territories, also on the territory of the city of Borjomi the spatial-territorial planning documentation, envisaged by the Law of Georgia on the Principles of Spatial Arrangement and Town-Planning shall be approved under the consent of the Government of Georgia.
2. In the capital of Georgia and in the capitals of the Autonomous Republics the development regulation zone, envisaged by the Law of Georgia on Protection of Cultural Heritage, shall be regarded as the zone of special regulation of construction activities, envisaged by the Law of Georgia on the State Supervision over the Architectural-Construction Activities and it shall be approved by the President of Georgia.
3. The permits for the disposal of lands and construction within the zone, specified by Paragraph 2 of this Article, on the recreational territories of Bakuriani and Gudauri, also on the territory of the city of Borjomi, shall be issued by the administrative authorities, identified by the

Government of Georgia, commensurate with the procedure, specified by the Government of Georgia. The Government of Georgia shall be entitled to delegate powers to local self-government authorities for a certain period.

**V CHAPTER**  
**TRANSITIONAL PROVISIONS**

**Article 14. Investment Activities Commenced before the Enactment of This Law**

For enjoying the rights under this Law, any person, whose activities comply with the requirements of this Law and are being carried out for the moment of application, irrespective of the date of commencement of respective investment activities, shall be entitled to apply to the Government of Georgia.

**Article 15. Privatization of State Property Commensurate with the Procedure, Envisaged by This Law (25.07.2006 N3526)**

The Ministries of Economic Development and Justice of Georgia shall be required to ensure the compliance of secondary legislation regulating the auctions of the state property (including non-agricultural lands) and direct sale, with this Law.

**VI CHAPTER**  
**FINAL PROVISIONS**

**Article 16. Enforcement of the Law**

1. This Law, except for Paragraphs 2 and 3 of Article 13 shall come in force since 15 August, 2006.
2. Paragraphs 2 and 3 of Article 13 shall come in force upon the date of enforcement of respective secondary legislation

The President of Georgia Micheil Saakashvili

Tbilisi,

30 June, 2006

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