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Proposed new type of real property right called 'Sub-Ing-Sithi'

On 9 January 2018, the Thai Cabinet approved, in principle, the Bill on Sub-Ing-Sithi (the "**Bill**"), which governs a new type of real property right called 'Sub-Ing-Sithi' proposed by the Ministry of Finance in order to create an alternative legal right to use real property in a new form in addition to the ownership and leasehold rights which could create investors' confidence to invest in Thailand and to facilitate their use of real property right.

Under the leasehold right, there are some limitations under the applicable laws (i.e. the Civil and Commercial Code ("**CCC**") in case of general lease, and the Act on the Lease of Immovable Property for Commercial and Industrial Purposes ("**Act**") which could hinder the maximum utilization on real property from an economic aspect.

For example, the lessee's right under the CCC is exclusive to each lessee. Therefore, the lease would be terminated upon the lessee's death and may not be freely transferrable. In addition, such leasehold right under the CCC could not be used as a business collateral, while the Act is applicable to the lease for the commercial or industrial purpose only.

Key principles under the Bill are as follows:

Grantor of Sub-Ing-Sithi	- Must be an owner of land (with title deed) or condominium
Registration of Sub-Ing-Sithi	- Must be made in writing and registered with the land registry office with a period of not exceeding 30 years
Legal rights of Grantee of Sub-Ing-Sithi (without having to obtain consent of the grantor of Sub-Ing-Sithi)	- To lease out, sell, transfer, inherit to heir(s) or mortgage Sub-Ing-Sithi - To alter, enlarge or construct a building or other constructions on real property to which Sub-Ing-Sithi is attached
Duty of Grantee of Sub-Ing-Sithi	- To hold the real property to which Sub-Ing-Sithi is attached harmless against any loss or damage or defend against the intruder or any other person who claims his/her right over such real property and notify such circumstances to the grantor of Sub-Ing-Sithi immediately

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The Bill will proceed with further necessary steps before becoming an enforceable law.

We welcome any opportunity to discuss the relevance of the above matter upon request.

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