

**Decision of the Chairman of the Department of Municipal Affairs
No. (250) of 2015
Issuing the Executive Regulations on Project Escrow Account Pursuant to Law
No. (3) of 2015 concerning Regulating Real Estate Sector in the Emirate of Abu
Dhabi**

Chairman of the Municipal Affairs Department:

Having reviewed:

- Law No. (1) of 1974 concerning the reorganization of the Governmental Body in the Emirate of Abu Dhabi and its amendments;
- Law No. (3) of 2005 concerning the regulation of the real estate registration in the Emirate of Abu Dhabi;
- Law No. (19) of 2005 concerning real estate ownership, and its amendments;
- Law No. (9) of 2007 concerning the establishment of the Department Municipal Affairs;
- Law No. (3) of 2015 Concerning the Regulation of the Real Estate Sector in the Emirate of Abu Dhabi .
- And acting upon what was presented to and approved by the Executive Council,

Issued the following Law:

Article (1)

Definitions

In application of the provisions of this Law, the following terms and expressions shall have the meanings assigned thereto, unless the context requires otherwise:

Department	:	The Department of Municipal Affairs.
Municipality	:	Abu Dhabi City Municipality or Al Ain City Municipality or the Western Region Municipality and any Municipality that may be established in the future in the Emirate.
Law	:	Law No. (3) of 2015 Concerning the Regulation of the Real Estate Sector in the Emirate of Abu Dhabi.
Competent Authority	:	Government competent authority pursuant to the provisions of the Law to establish and develop real estate development projects.

Real Estate Development Project	:	The project of constructing multi-storey buildings, or complexes for residential, commercial, or mixed purposes, and their utilities or the construction of the infrastructure and service facilities in the event of selling vacant lands.
Licensees	:	The persons who work in the real estate sector and who are licensed by the Department. They are the Developer, Broker, Brokers' Employee Auctioneer, Manager of the owners' association, Valuer, and Surveyor.
Developer	:	The main developer or the sub-developer.
Main Developer	:	The person licensed to practise development works, sell, manage, and lease out real estates as a main developer of a real estate development project.
Sub-Developer	:	The person licensed to practise development work, sell, manage, and lease out real estates in a part of a major complex pursuant to an agreement concluded thereby with the main developer or another sub-developer.
Project Escrow Account	:	The bank account for the real estate development project, where the amounts paid by the buyers of the real estate units sold off the plan or the loan payments given by the financier for funding the real estate development project, are deposited.
Account Trustee	:	The bank or financial institution accredited by the Department to manage the project escrow account according to the provisions of this Law.
Real Estate Register	:	The Real Estate Register established according to the provisions of Law No. (3) of 2005 concerning the regulation of the real estate registration in the Emirate of Abu Dhabi
Initial Real Estate Register:	:	The hand-written or electronic register prepared for the registration of all dispositions and rulings related to the real estate units sold off the plan
Broker	:	The person who searches, pursuant to a brokerage contract, for a second party to conclude a particular contract and to mediate in the contract negotiations for a commission.

Chapter (1)

Project Escrow Account

Article (2)

(Endorsement of the Account trustee at the Department)

1. The account trustee must be a duly licensed bank, or a financing institution licensed at the UAE Central Bank.
2. The account trustee wishing to be accredited by the Department shall submit an application on the form endorsed by the Department with the following documents attached:
 - a) Certificate proving that he is licensed and registered with the UAE Central Bank to practice real estate financing in the Country.
 - b) A pledge from the person authorized to sign at the account trustee to abide by the provisions of the project escrow account agreement concluded by him under Article (18) of the Law.
 - c) A proof of paying the prescribed fees.
 - d) Any other documents or information required by the Department.

The Department, after checking the accuracy and adequacy of the information and documents in the application, shall issue an accreditation certificate for the account trustee.

Article (3)

(Opening the Project Escrow Account)

Subject to the provisions and procedures set forth under article (18) of the Law, the following must be abided by:

1. The developer wishing to open the project escrow account shall submit an application to the Department as per the approved form with the following documents attached:
 - a) A certificate of registering a real estate development project at the Department.
 - b) A certificate of registering and licensing the developer issued by the Department.
 - c) A certificate of the developer's ownership of the real property subject of the real estate development project.
 - d) A certificate proving submitting the specifications of the units and the real property in the real estate development project to the Department and registration thereof in the Initial Real Estate Register.
 - e) A certificate of account trustee accreditation by the Department.

- f) A copy of all the approvals required for the real estate development project by the competent authority.
 - g) Three copies of the project escrow account agreement, concluded between the developer and the account trustee, according to the form approved by the Department.
 - h) A proof of paying the prescribed fees
 - i) Any other documents or information required by the Department.
2. The Department, after checking the accuracy and adequacy of the information and documents in the application, shall issue a certificate to approve opening the project escrow account and to allow the developer, after opening the same – to carry out the sale of units or real estates in the real estate development project.
 3. The account trustee shall not open the project escrow account save after receiving the approval certificate issued by the Department pursuant to clause (2) of this article.
 4. No real estate unit shall be sold off-plan unless the project escrow account is opened.
 5. Without prejudice to what was mentioned above and pursuant to the mechanisms and provisions set forth by the Department, the real estate development projects prior to the date of enforcement of this Law and these executive regulations shall be excluded from the conditions of this article, provided that these projects got all the necessary approvals for the launch of the project according to the following:
 - a) Where the real estate units are sold off-plan before the issuance of this Law and these executive regulations, the developer must submit to the Department statements of all the amounts disbursed from buyers and financiers and all the amounts disbursed on the project and the actual completion percentage of the project.
 - b) The Department reviews the submitted documents and inspects the project to identify the actual completion percentage of the previous real estate development projects pursuant to article (4) of the executive regulations.
 - c) Any existing real estate project shall be excluded from the condition of opening a project escrow account if the completion percentage of the real estate project exceeds (70%) of the actual completion as per the procedures and provisions determined by the Department in its decision on exclusion from the condition of opening a project escrow account.

Article (4)

(Assessment of the Completion Percentage)

- The developer shall, before starting the real estate project, be obliged to submit the information specified in the table below "as a minimum requirement", approved by the project consultants. The Department may approve the table for the purpose of assessing the real estate project completion, or to seek the help of anyone it sees fit to check the accuracy of the percentage against the nature of the project so as to amend it.

Item	Standard percentage	Given percentage	Completed percentage
Site preparation	%	100%	%
Initial works	%	100%	%
Foundations	%	100%	%
Infrastructure	%	100%	%
Suprastructure	%	100%	%
Internal works	%	100%	%
Outer layer	%	100%	%
Building services	%	100%	%
Interior finishing	%	100%	%
External works	%	100%	%

- The actual completion percentage of the construction works of the real estate project shall be assessed through a consultant appointed by the Department at the expenses of the developer, taking into account the percentage the incurred expenses constitute against the total construction expenses allocated in the concerned project budget. The Department may ask the developer to submit an audited statement from a chartered accountant specifying such expenses to validate the expenses incurred.
- For the purposes of Clause (2) above, the expenses incurred in the construction works of the real estate development project shall not include the value of the land subject to development in addition to the project marketing expenses.

Article (5)**(Management of the Project Escrow Account)**

1. The developer must deposit all amounts related to the purchase of real estate units sold off-plan in the project escrow account.
2. The account trustee must give a reference number for each disbursement in the project escrow account. The real estate unit number and the project number must be stated as per the details mentioned in the sale and purchase agreement between the developer and the buyer.
3. The account trustee may receive the disbursements in cash or by check, electronic transfer, credit cards, or any method acceptable at banks and in accordance with the Central Bank directives in force.
4. The account trustee must abide by the provisions of the project escrow account agreement. No sums may be disbursed from the account except after verifying the developer's completion of at least 20% of the construction of the relevant real estate development project, with the rest of the disbursements to be made under the project escrow account agreement.
5. The developer may withdraw the profits related to the project from the project escrow account in three phases, including the following:
 - a) After the completion of 60% of the real estate development project.
 - b) After the completion of 100% of the real estate development project.
 - c) In the event of obtaining the approval of the Department.
6. The developer has the right to withdraw all profits related to the project from the project escrow account with the approval of the Department.
7. The developer shall not pay for the value of the land subject to development and project marketing expenses from the project escrow account.
8. The developer must provide the account trustee with all the details related to the real estate units that were sold off plan, the unit prices, and the amounts received.

Article (6)**(Project Escrow Account Agreement)**

1. The developer and the account trustee must conclude an agreement to create a project escrow account in the name of the real estate development project concerned, according to the form approved by the Department.
2. The project escrow account agreement must include, as a minimum, the following conditions, and criteria:
 - a) A condition about the developer's obligation to deposit the sums paid by the buyers of the real estate units sold off plan and the payments made by the

financiers of the real estate development project directly into the project escrow account.

- b) The criteria to be met before paying any amounts to the developer from the project escrow account, including the amounts due according to the provisions of the Law.
- c) Method of distributing the account balance in case of cancelling the real estate development project in accordance with the provisions of the Law.
- d) Conditions for managing the project escrow account by the account trustee and his powers and competencies to disburse from the account to the developer.
- e) Establishing a clause requiring that buyers' payments be linked to the actual completion percentage of the construction works that are calculated in accordance with the provisions of Articles (4 and 5) of these executive regulations.
- f) Conditions, procedures, and executive mechanisms regarding the project escrow account agreement that the Department may determine, as it sees fit.

Article (7)

Obligations of the Account Trustee

1. The account trustee shall provide the Department with periodic statements every three months concerning the receipts and payments of the project escrow account, an annual report prepared by an accredited auditor on the relevant account, the paid amounts, and the extent to which they are consistent with the provisions of this Law and the project escrow account agreement.
2. The Department may at any time request that the account trustee provides it with the statements of receipts and payments or any other information or data it deems necessary to access.
3. The Department may order the trustee account to stop dispersing any sums from the project escrow account should the account trustee contravene this Law, its Executive Regulations, or the instructions of the Department. The account trustee must comply with the instructions of the Department.
4. Should the account trustee contravene any of the provisions of this Law and its Executive Regulations or the conditions and provisions of the project escrow account agreement, the Department shall notify this trustee of such contravention and grant him a deadline to correct it. The account trustee shall comply with notification requirements and meet the same within the period specified therein.
5. The account trustee may not close the project escrow account without the approval of the Department.
6. Subject to the provisions of article (21) of this Law, the Department may put the conditions, procedures, and executive regulations it sees fit to oversee the

implementation of the account trustee obligations concerning the project escrow account.

Article (8)

Review of the Project Escrow Account Data

1. Any person who deposited any funds in the project escrow account in accordance with the provisions of the law may review his account data kept with the account trustee and may obtain copies thereof.
2. The account trustee is obliged to give buyers from developers the details and account statements of their personal accounts and the amounts they have paid.
3. The account trustee shall provide the developer with all the statements, data and information related to the real estate project.

Article (9)

Project Escrow Account Auditors

1. The project escrow account auditor must be a chartered accountant licensed in the Emirate of Abu Dhabi and certified from the Accountants and Auditors Association in the United Arab Emirates.
2. Certified auditors must present their reports as per the International Standards on Auditing (ISA) and International Financial Reporting Standards (IFRS).

Article (10)

Marketing Real Estate Development Projects

1. Subject to Article (14) of the law, the developer may apply for a permit to advertise the sale of real estate units off-plan, real estate and real estate development projects and marketing thereof upon the issuance of a certificate of approval from the Department to open a project escrow account in accordance with clause (2) of Article (3) of these executive regulations.
2. The application for obtaining a permit to advertise the marketing of real estate development projects shall be made on the form approved by the Department.
3. After verifying the validity and adequacy of the information and documents contained in the application, the Department shall issue a permit to advertise the marketing of the real estate development projects.
4. Subject to the provisions of Article (14), Clause (3) of the Law, the Department shall put in the permit mentioned in Clause (3) of this Article the conditions, procedures and executive mechanisms it sees fit as regards regulating the advertising conditions for the marketing of real estate development projects in local and foreign media and participation in local and foreign exhibitions.

Article (11)**(Delay in commencement or Delivery of the Real Estate Development Project)**

Subject to Article (25) of the law, if the developer does not commence the construction works of the real estate development project after the lapse of six months from the date of granting him approval to sell off plan without an acceptable excuse, buyers owning not less than (5%) of the sold real estate units may file a complaint before the Department to investigate the matter according to the following:

1. The complaint is submitted on the form approved by the Department, with the following attachments:
 - a. A copy of the sale and purchase agreement concluded between the developer and the buyer.
 - b. A written summary of the most important facts proving the developer's failure to commence the project.
 - c. Copies of correspondences between the buyer and the developer related to the construction progress and any matters that affect the timing of processing or completing the project.
 - d. Any document that supports the complaint.
 - e. h. Any other information or documents required by the Department.
2. Upon receipt of the complaint, the Department may do the following:
 - a. Rejection of the complaint if it becomes evident to the department that the complaint is groundless following the investigation and scrutiny of what the buyer submitted.
 - b. Send a copy of the complaint to the developer to respond within (21) days.
3. If it is found that the developer has delayed the commencement of the project without an acceptable excuse in contravention with the provisions of this Law, its Executive Regulations, or the developer's contractual obligations, the Department may cancel the project, in which case, the developer must return all the funds received from the buyers in return for the real estate development project in accordance with the provisions Article (25) of the law, and the Department must inform the developer of its decision.
4. The developer or buyer may grieve the decision issued in accordance with the previous clause before the Chairman of the Department within fifteen days from the date of his notification of the decision.
5. The developer or buyer may, in case of dissatisfaction with the decision of the Chairman of the Department regarding the grievance submitted in accordance with

the previous clause, appeal before the competent court within sixty days from the date of decision notification.

6. The Department may impose a delay penalty on the developer to be paid in favour of the buyer of the real estate units if the said developer delays the delivery of the real estate development project for more than 6 months from its expected date of delivery in accordance with the schedule to which the developer was committed before the Department. The delay penalty shall be calculated as per the criteria and practices applied in the case of delay in completion of real estate development projects.

Article (12)

Failure to Complete the Real Estate Development Project

1. Subject to the provisions and procedures set forth in article (26) of the Law and if the developer fails to complete the real estate development project, the account trustee shall, after consultation with the Department, propose the terms, procedures, and measures he sees fit to preserve the rights of the depositors in order to ensure the completion of the real estate development project.
2. If the Department, after conducting the investigation referred to in Article (11) of these executive regulations, finds that there are circumstances that prevent the developer from completing the real estate development project, it shall take into account any deposits related to the real estate development project by the buyer, financier, investor, developer, and account trustee, and shall make contacts with relevant stakeholders as needed.
3. After the exhaustion of all measures referred to in clauses (1 and 2) of this article, and if it becomes impossible to find a solution for the completion of the project within the period of (6) months from the date of consultation with the Department, the account trustee shall return the remaining amounts deposited in the project escrow account according to the order set in article (26) of the and under the supervision of the Department.

Article (13)

Claiming the Funds Deposited in the Project Escrow Account

Subject to the provisions of Articles (17 and 26) of the law, and in case it is decided to cancel the real estate development project, the buyer of the real estate unit off-plan may request to recover his share in the funds deposited in the project guarantee account, according to the following conditions:

1. The buyer of the real estate unit off plan must submit an application to the Department on the approved form with the following documents attached:
 - a. A copy of off-plan sale agreement.
 - b. Copy of correspondence exchanged between the buyer off-plan and the developer related to the development agreement.
 - c. Details of the money that the buyer paid off-plan to the developer.
 - d. A certificate from the account trustee confirming the amount paid in the project escrow account regarding the off-plan sale agreement.
 - e. Certificate of paying the prescribed fees.

2. After verifying the validity and adequacy of the information and documents contained in the application as per clause (1) of this article, the Department shall issue a letter for the account trustee specifying the amount that must be returned to the off-sale buyer from the project escrow account without prejudice to the buyer's right to recover the difference if the recovery amount is less than the amount deposited by the buyer in the project escrow account taking the following into account:
 - a. The amount released from the project escrow account to the developer.
 - b. Other amounts that were deducted in excess from the project escrow account.
 - c. The amount paid in the project escrow account by the financier of the real estate development project.
 - d. The security (guarantee) held by the financier of the real estate development project.

Article (14)

Requesting a Correction

1. If the Department finds that any application submitted under the provisions of these executive regulations, including any documents or information that must be attached to the application, is incomplete, it may request the applicant to complete it.
2. The Department may set a deadline to make the required correction, and if the applicant fails to comply with the Department's request within the specified period, it may reject the application.
3. The Department may collect the fees prescribed for the correction request issued in accordance with the provisions of the executive regulations regarding fees.

Chapter (2)**Funds Received by Broker****Article (15)****(Depositing Funds in the Project Escrow Account)**

1. The broker who receives funds from the contractees must deposit them in the project escrow account.
2. The broker shall be committed to conclude a written brokerage contract on the form approved by the Department before performing any brokerage work and shall submit such contract to the Department for registration with the Real Estate Development Register before receiving any funds from the contractee, and within a maximum of (15) fifteen days from the date of signing the said contract. The Department shall determine, by virtue of a decision issued by its chairman, the maximum remuneration or commission that the broker may charge from the contractee.
3. The broker must deposit all the amounts he receives during performing his work pursuant to the provisions of the law and its executive regulations in the project escrow account separated from his personal funds like his remuneration or commission.
4. The broker may not gain any personal benefit from the amounts deposited in the project escrow account nor may he withdraw any amount from such account unless in the cases approved by the Department.

Article (16)**Project Escrow Account Records and their Audits**

1. All records and regular account books that must be kept in accordance with these executive regulations or any instructions issued by the Department, shall be kept with the broker at his headquarters according to the forms approved by the Department written in Arabic or both Arabic and English, provided that the text written in Arabic shall prevail.
2. In the event that the computer system is used for the purpose of registering, storing or processing any data related to the project escrow account, the following shall be observed:
 - a. The data may be stored professionally and securely in a place other than the headquarters of the broker, provided that it can be viewed at the headquarters.
 - b. The broker saves the required computer monitoring records according to the provisions stipulated in these executive regulations.
3. The Department may issue instructions and directives to the broker regarding the project escrow account, and he shall be committed to implement them, the most important of which are:

- a. Issuing receipts of funds received and depositing them in the project escrow account.
- b. If any money is paid from the project escrow account, this must be done by check or electronic transfer, including the authorization related to those payments.
- c. Depositing funds in the project escrow account and records to be kept in relation to this deposit.
- e. Registering the transactions of the project escrow account in a cash book and settle the balances contained in the cash book at the bank records.
- f. Keeping the general ledger and making entries therein.
- g. Record transfers between general ledger accounts in the journal.
- h. Prepare approximate monthly balances for general ledger accounts.

Article (17)

Monitoring Computer Systems

1. The provisions of this Article shall apply to the computer system used by the broker to store transactions related to the project escrow account.
2. The broker must consider keeping all records and regular accounts books according to the chronological order of all changes (whether created, modified, or deleted) that occur on any of the following data and a list of the data before and after the change (customer name, customer address, reference number, customer code if any, project escrow account number).
3. For any journal, the broker must make sure of the following:
 - a) Match entries before posting them in the general ledger.
 - b) Any reference numbers in the journal are serialized and monitored by the program.
4. For any general ledger, the broker must make sure of the following:
 - a) The software program does not allow the deletion of an account unless the account balance is zero and the account remains stored when deleted (as it was immediately before the deletion) in a readable form on demand.
 - b) The program does not allow posting an entry for a transaction resulting from a debit balance of an account unless a synchronized entry of the deal is issued so that a separate and sequential report of all these operations can be issued in a readable form upon request.

5. The broker must verify the following:
 - a. Appearance of any entry in the incorporated record in a readable form on demand in chronological order.
 - b. Paginate the report or every page or entry in the report sequentially under the monitoring program in a manner that allows the completion of the records to be kept in accordance with the provisions of these executive regulations, which will be properly verified and audited.
 - c. The inability to make any modifications on the data of any previously recorded transaction, except for the subsequent separate transaction affecting the modification.
 - d. Every data program requires entry in every field in the data entry screen designed to receive the required data according to the provisions of these executive regulations, which will be then included in the records and regular accounts books.
 - e. Put a backup of all records and regular account books referred to in this article on a hard drive or floppy disk, or by using any electronic means at least once a month.
 - f. Keeping the latest backup of the records and regular account books in a separate place to avoid any damage that might occur to them (such as fire, power failure or hard drive failure).

Article (18)

Duration of Record Keeping and their Audit

1. The broker must keep all records and regular account books required to be kept in accordance with the provisions of these executive regulations for a period of at least five years from the date of the last entry therein.
2. The broker must deliver all records and regular account books upon a written notice issued by the Department, including computer reports required to be saved by the broker or under the provisions of these executive regulations to an authorized Department official. The authorized official may copy any of these records, books or reports and search at the broker for data related thereto. The broker must also provide the data required by the authorized official immediately.

Article (19)

Notice of Deficiency

The licensee and the account trustee must immediately notify the Department of any deficiency or abuse of trust or any action that affects the project escrow account in contravention of the law and its executive regulations.

Article (20)**Unclaimed Project Escrow Account Funds**

1. The broker who keeps funds in the project escrow account must submit to the Department an annual statement during the month of January of each year of the funds received by the broker for more than two years before the said month. The statement includes the following:
 - a) The amount of the retained funds.
 - b) A statement about the identity of the persons to whom these funds belong.
 - c) The last known address of these persons by the broker.
2. When the Department receives the statement mentioned in clause (1) of this article, it sends to each person concerned via his last address and requests him to recover his money from the broker, and if the broker does not return those funds, the Department may request them from him, and they must be paid back to relevant persons.
3. Subject to clause (2) of this article, the Department shall keep, as it deems appropriate, the unclaimed funds, pending any future claim submitted by the person having the right to claim it.

Article (21)

The Department shall issue the necessary decisions, instructions, and forms to implement the provisions of this decision.

Article (22)

This decision shall be published in the Official Gazette and shall become effective from the date of the enforcement of the provisions of the Law.

Saeed Eid Al-Ghafli

Chairman of the Department of Municipal Affairs

Issued in Abu Dhabi

On: 26/10/2015

Corresponding to: 13 Muharram 1437

Hijri