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Law of the People's Republic of China on the Contracting of Rural Land [Revised]**中华人民共和国农村土地承包法 [已被修订]**

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Order of the President of the People's Republic of China (No. 73)

中华人民共和国主席令
(第73号)

The Law of the People's Republic of China on the Contracting of Rural Land, adopted at the 29th Meeting of the Standing Committee of the Ninth National People's Congress on August 29, 2002, is hereby promulgated and shall enter into force as of March 1, 2003.

President of the People's Republic of China: Jiang Zemin
August 29, 2002

Law of the People's Republic of China on the Contracting of Rural Land
(adopted at the 29th Meeting of the Standing Committee of the Ninth National People's Congress on August 29, 2002)

《中华人民共和国农村土地承包法》已由中华人民共和国第九届全国人民代表大会常务委员会第二十九次会议于2002年8月29日通过，现予公布，自2003年3月1日起施行。
中华人民共和国主席 江泽民
2002年8月29日
中华人民共和国农村土地承包法
(2002年8月29日第九届全国人民代表大会常务委员会第二十九次会议通过)

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Chapter I General Provisions

第一章 总则

Article 1 The present Law has been formulated in accordance with the Constitution for the purpose of stabilizing and perfecting the two-level operation system, which is based on the household system of contracted responsibility and on the responsibility system of contracting by households supplemented by unified management, entitling the peasants to a long-term and guaranteed right to the use of land, protecting the legal rights and interests of the parties of the contracting of rural land, so as to improve the development of agriculture and the rural economy and stabilize the rural areas.

第一条 【立法目的】为稳定和完善以家庭承包经营为基础、统分结合的双层经营体制，赋予农民长期而有保障的土地使用权，维护农村土地承包当事人的合法权益，促进农业、农村经济发展和农村社会稳定，根据宪法，制定本法。

Article 2 "Rural land" as mentioned in the present Law refers to cultivated land, forestry land, grassland, and land for other agricultural uses owned by collectives or the State and exploited by agricultural economic collectives.

第二条 【定义】本法所称农村土地，是指农民集体所有和国家所有依法由农民集体使用的耕地、林地、草地，以及其他依法用于农业的土地。

Article 3 The State applies a system of contracting for operation of rural land. Contracting of rural land shall be fulfilled in the form of contracting by households within the economic

第三条 【土地承包方式】国家实行农村土地承包经营制度。

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organizations of the collectives. Rural lands such as barren mountains, waste, ditches, barren hills and waste beaches, which are not suitable for contracting by households, shall be contracted by means of bid invitation, auction, or open negotiation.

Article 4 The State protects the long-term stability of the relationships of the contracting of rural land. The nature of the ownership of the rural land shall not be altered when such land is contracted. The contracted land shall not be sold or bought.

Article 5 Members of the economic organizations of the rural collectives shall, in accordance with law, have the right to contract a rural land awarded by the economic organizations of their collectives. The rights to land contract of members of the economic organizations of the said rural collectives shall not be exploited or constrained by any organizations or individuals.

Article 6 Man and women shall have the equal rights to contract the rural land. The women's lawful rights to land contract shall be protected. No organizations or individuals shall exploit or infringe upon the right to operate contracted land that women shall enjoy.

Article 7 The principle of openness, equality, and fairness shall be practiced in the contracting of rural land. The relationship among the State, the collectives and the individuals shall be properly handled.

Article 8 The contracting of rural land shall be conducted according to the laws, rules and regulations, and in conformity with the protection of rational development and sustainable utility of land resources. The contracted rural land shall not be used for non-agricultural construction without through lawful approval. The state encourages peasants and economic organizations of the rural collectives to increase input in the land, better the soil fertility, and improve the agricultural production capability.

Article 9 The state protects the legitimate rights and interests of the owners of the collectively-owned land, protects the contract-undertaking party's right to the operation of contracted land. No unit or individual may infringe upon these rights and interests.

Article 10 The state protects the contract-undertaking party's right to transfer the operation of the contracted land lawfully, voluntarily, and for compensation.

Article 11 The agricultural administration departments and the forestry administration departments shall, in accordance with the duties and responsibilities authorized by the State Council, respectively be responsible for the guidance of the land contracting and the management of the contractual contracting. The agricultural administration departments and the forestry administration departments of the people's governments at or above the level of the county shall, in accordance with the stipulated duties and responsibilities, be responsible for the guidance of the land contracting and the management of the contracting in their areas. The people's government of township (town) shall be responsible for the guidance of the land contracting and the management of the contractual contracting in its area.

Chapter II Contracting by households

Section 1 Rights and Obligations of the Contract-Letting Party and the Contract-Undertaking Party

Article 12 Contacts of land owned by peasant collectives that belongs lawfully to peasant collectives of a village shall be let by collective economic organizations of the village or by villagers' committees; contracting of land already owned by different peasant collectives that belong to two or more different collective economic organizations in the village shall be let by the rural collective economic organizations in the village or by villagers' groups. Contracting let by the village collective economic organizations or by the villagers' committee shall not alter the ownership of the land belonging to peasant collectives of every collective economic organization in the village. Contracting of the state-owned rural land which is lawfully determined to be used by peasant collectives shall be let by rural collective economic organizations, villagers' committee or villagers' groups that use the said land.

Article 13 The party that lets the contract shall enjoy the following rights:

- (1) letting the land owned by the said collectives or the stated-owned rural land which is determined to be use by the collectives;
- (2) supervising the contract-undertaking party to rationally use and protect the land according the agreed purpose of use specified in the contract;
- (3) checking up the contract-undertaking party's activities that encroach upon the contracted land and agricultural resources; and
- (4) other rights as stipulated by laws or administrative rules and regulations.

Article 14 The party that lets the contract shall bear the following obligations:

农村土地承包采取农村集体经济组织内部的家庭承包方式，不宜采取家庭承包方式的荒山、荒沟、荒丘、荒滩等农村土地，可以采取招标、拍卖、公开协商等方式承包。

第四条 【土地所有权不变】国家依法保护农村土地承包关系的长期稳定。农村土地承包后，土地的所有权性质不变。承包地不得买卖。

第五条 【保护土地承包权】农村集体经济组织成员有权依法承包由本集体经济组织发包的农村土地。任何组织和个人不得剥夺和非法限制农村集体经济组织成员承包土地的权利。

第六条 【保护妇女土地承包权】农村土地承包，妇女与男子享有平等的权利。承包中应当保护妇女的合法权益，任何组织和个人不得剥夺、侵害妇女应当享有的土地承包经营权。

第七条 【土地承包原则】农村土地承包应当坚持公开、公平、公正的原则，正确处理国家、集体、个人三者的利益关系。

第八条 【承包后合理利用】农村土地承包应当遵守法律、法规，保护土地资源的合理开发和可持续利用。未经依法批准不得将承包地用于非农建设。国家鼓励农民和农村集体经济组织增加对土地的投入，培肥地力，提高农业生产能力。

第九条 【保护承包双方合法权益】国家保护集体土地所有者的合法权益，保护承包方的土地承包经营权，任何组织和个人不得侵犯。

第十条 【保护承包权流转】国家保护承包方依法、自愿、有偿地进行土地承包经营权流转。

第十一条 【各级行政主管部门职责】国务院农业、林业行政主管部门分别依照国务院规定的职责负责全国农村土地承包及承包合同管理的指导。县级以上地方人民政府农业、林业等行政主管部门分别依照各自职责，负责本行政区域内农村土地承包及承包合同管理。乡（镇）人民政府负责本行政区域内农村土地承包及承包合同管理。

第二章 家庭承包

第一节 发包方和承包方的权利和义务

第十二条 【发包方】农民集体所有的土地依法属于村农民集体所有的，由村集体经济组织或者村民委员会发包；已经分别属于村内两个以上农村集体经济组织的农民集体所有的，由村内各该农村集体经济组织或者村民小组发包。村集体经济组织或者村民委员会发包的，不得改变村内各集体经济组织农民集体所有的土地的所有权。国家所有依法由农民集体使用的农村土地，由使用该土地的农村集体经济组织、村民委员会或者村民小组发包。

第十三条 【发包方权利】发包方享有下列权利：

- (一) 发包本集体所有的或者国家所有依法由本集体使用的农村土地；
- (二) 监督承包方依照合同约定的用途合理利用和保护土地；
- (三) 制止承包方损害承包地和农业资源的行为；
- (四) 法律、行政法规规定的其他权利。

第十四条 【发包方义务】发包方承担下列义务：



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- (1) Sustaining rights of the contract-undertaking party to the use of the contracted land; rather than unlawfully modifying or rescinding the contract;
- (2) Esteeming the decision-making powers for the production and operation of the contract-undertaking party rather than interfering with the normal production operation activities undertaken by the contractor according to the law;
- (3) Supplying for the contract-undertaking party the services of production, technology and information according to the agreement concluded in the contract;
- (4) Implementing the overall plans for the use of land drawn up by counties, townships (towns); organizing the construction of the agricultural infrastructure in its collective economic organizations; and
- (5) Other obligations as stipulated by laws, or administrative rules and regulations.

Article 15 The party undertaking the contracting by households shall be a farmer of the economic organizations of the said collectives.

Article 16 The contract-undertaking party shall enjoy the following rights:

- (1) Enjoying the right to the use of, and profits and interests from the contracted land, and to the circulation of the operation of the contracted land; enjoying the decision-making power to organize production operation and dispose his products;
- (2) Enjoying the right to the compensation for the contracted land if such land is lawfully requisitioned, or used for non-agricultural construction; and
- (3) Other rights as stipulated in other laws, or administrative rules or regulations.

Article 17 The contract-undertaking party shall bear the following obligations:

- (1) Sustaining the agricultural purpose of use of the contracted land rather than utilizing such land for the purpose of non-agricultural construction;
- (2) Protecting and rationally using the contracted land according to laws, rather than imposing perpetual damage to such land; and
- (3) Other obligations as stipulated by laws, or administrative rules or regulations.

Section 2 Principles and Procedures of the Contracting

Article 18 Contracting of land shall be practiced in accordance with the principles as follows:

- (1) If the undertaking of contracting of land is organized in a unified way according to provisions, members of the collective economic organizations of such land shall lawfully enjoy the equal rights to contract for the land, or give up the right to contract for the land;
- (2) The contract shall be undertaken through democratic consultation, and fairness and rationality.
- (3) The projects for the contracting shall, in accordance with the provisions stipulated in Article 12 of the present Law, be agreed to by at least two-thirds of the members of the villagers assembly or of the representatives of villagers of the said collective economic organizations; and
- (4) The procedures shall be lawful.

Article 19 The contract of land shall be undertaken in conformity with the following procedures:

- (1) A group in charge of the contract work shall be elected by the villagers assembly composed of the members of the collective economic organizations;
- (2) Projects for contracting shall be drawn up and made public by the group in charge of the contract work in accordance with provisions of laws or regulations;
- (3) Villagers assembly of members of the collective economic organization shall be held so as to pass contract projects through discussion;
- (4) Projects for the contracting shall be openly organized and implemented; and
- (5) Contracting shall be concluded.

Section 3 Contracting and Duration of the Contracting

Article 20 The duration of a contract for cultivated land shall be 30 years. The duration of a contract for grassland shall be between 30 years to 50 years. The duration of a contract for forest land shall be

(一) 维护承包方的土地承包经营权, 不得非法变更、解除承包合同;

(二) 尊重承包方的生产经营自主权, 不得干涉承包方依法进行正常的生产经营活动;

(三) 依照承包合同约定为承包方提供生产、技术、信息等服务;

(四) 执行县、乡(镇)土地利用总体规划, 组织本集体经济组织内的农业基础设施建设;

(五) 法律、行政法规规定的其他义务。

第十五条 【承包方】家庭承包的承包方是本集体经济组织的农户。

第十六条 【承包方权利】承包方享有下列权利:

- (一) 依法享有承包地使用、收益和土地承包经营权流转的权利, 有权自主组织生产经营和处置产品;
- (二) 承包地被依法征用、占用的, 有权依法获得相应的补偿;
- (三) 法律、行政法规规定的其他权利。

第十七条 【承包方义务】承包方承担下列义务:

- (一) 维持土地的农业用途, 不得用于非农建设;
- (二) 依法保护和合理利用土地, 不得给土地造成永久性损害;
- (三) 法律、行政法规规定的其他义务。

第二节 承包的原则和程序

第十八条 【承包原则】土地承包应当遵循以下原则:

- (一) 按照规定统一组织承包时, 本集体经济组织成员依法平等地行使承包土地的权利, 也可以自愿放弃承包土地的权利;
- (二) 民主协商, 公平合理;
- (三) 承包方案应当按照本法第十二条的规定, 依法经本集体经济组织成员的村民会议三分之二以上成员或者三分之二以上村民代表的同意;
- (四) 承包程序合法。

第十九条 【承包程序】土地承包应当按照以下程序进行:

- (一) 本集体经济组织成员的村民会议选举产生承包工作小组;
- (二) 承包工作小组依照法律、法规的规定拟订并公布承包方案;
- (三) 依法召开本集体经济组织成员的村民会议, 讨论通过承包方案;
- (四) 公开组织实施承包方案;
- (五) 签订承包合同。

第三节 承包期限和承包合同

第二十条 【承包期】耕地的承包期为三十年。草地的承包期为三十年至五十年。林地的承包期为三十年至七十年



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between 30 years to 70 years. The duration of a contract for special forest land may be extended upon approval of forestry administration departments under the State Council.

Article 21 A written contract shall be concluded by the party that lets the contract and the party that undertakes the contract.

In general, a land contract shall include the following provisions:

- (1) Names of the party letting the contract and the party undertaking it; names of persons of the contract-letting party who are responsible for the contract, names of representatives of the contract-undertaking party, and their respective domicile;
- (2) Such things as name, location, size and quality of the contracted land;
- (3) Duration of the contract and the beginning and terminating dates;
- (4) Purpose of use of the contracted land;
- (5) Rights and obligations enjoyed and borne by the party letting the contract and the party undertaking it, and
- (6) Liability for breach of contracting.

Article 22 A land contract becomes effective from the day when it is established. The party that undertakes the contract shall acquire the right to operate the contracted land when the contract becomes effective.

Article 23 The certificate of right to operate a contracted land and the certificate of forest right shall be issued to the contract-undertaking party and shall be registered with and recorded by local people's governments at or above the county level, which shall confirm the right of the operation of the contracted land.

The governments shall not charge any fees other than the cost of making the two kinds of certificate.

Article 24 After the land contract becomes effective, the party letting the contract shall not, as a result of the change of the person who proceeds or is in charge of the contract, modify or rescind the contract; nor shall the party letting the contract, as a result of the division or merger of the collective economic organizations, modify or rescind the contract.

Article 25 No state organ or the functionaries thereof may, by taking advantage of their functions and powers, interfere with the contract of rural land, modification of the contract, or rescission of the contract.

Section 4 Protection of the Right to Operate Contracted land

Article 26 Within the duration of the contract, the party that lets the contract shall not withdraw the contracted land.

Within the duration of the contract, if the household that undertakes the contract shifts to a small town and settles down there, its right to operate the contracted land shall be sustained, or its lawful right to circulate the operation right of the contracted land shall be permitted according to its free will.

Within the duration of the contract, if the household that undertakes the contract shifts to a city that is divided into regions, thereby becoming a non-agricultural household, the cultivated land and the contracted grassland shall be returned to the party that gives out the contract. If the household undertaking the contract refuses to return such land, the party that gives out the land shall be entitled to withdraw it. Within the duration of the contract, when the party undertaking the contract returns the contracted land to the party that gives out the land or when the party that gives out the contract lawfully withdraws the contracted land, if the input of the party undertaking the contract improves the production capability of the contracted land, it shall deserve a corresponding compensation.

Article 27 Within the duration of the contract, the party that lets the contract shall not readjust the contracted land.

Within the duration of the contract, if readjustment of cultivated land or grassland which is contracted to some contract-undertaking party is necessary due to such special events as natural calamities that greatly damage the contracted land, it shall be subject to the consent of at least two-thirds of the members of the villagers assembly or of the representatives of villagers of the said collective economic organizations, and shall be submitted to the people's government of the township (town) and to the agricultural administration department of the people's government at or above the county level for ratification. If the parties agree not to readjust the contracted land in the contract, the agreement concluded in the contract shall be applied.

Article 28 The following pieces of land shall be used for readjustment of contracted land or be contracted to newly added population:

- (1) Mobile land reserved in advance by the economic organization collectives;
- (2) Increased land owned through such means as reclaiming; and
- (3) Land lawfully returned to the contract-letting party by the contract-undertaking party according to its free will.

年; 特殊林木的林地承包期, 经国务院林业行政主管部门批准可以延长。

第二十一条 【承包合同内容】发包方应当与承包方签订书面承包合同。

承包合同一般包括以下条款:

- (一) 发包方、承包方的名称, 发包方负责人和承包方代表的姓名、住所;
- (二) 承包土地的名称、坐落、面积、质量等级;
- (三) 承包期限和起止日期;
- (四) 承包土地的用途;
- (五) 发包方和承包方的权利和义务;
- (六) 违约责任。

第二十二条 【承包合同生效】承包合同自成立之日起生效。承包方自承包合同生效时取得土地承包经营权。

第二十三条 【承包经营权证】县级以上地方人民政府应当向承包方颁发土地承包经营权证或者林权证等证书, 并登记造册, 确认土地承包经营权。颁发土地承包经营权证或者林权证等证书, 除按规定收取证书工本费外, 不得收取其他费用。

第二十四条 【不得随意变更承包合同】承包合同生效后, 发包方不得因承办人或者负责人的变动而变更或者解除, 也不得因集体经济组织的分立或者合并而变更或者解除。

第二十五条 【不得利用职权干涉土地承包】国家机关及其工作人员不得利用职权干涉农村土地承包或者变更、解除承包合同。

第四节 土地承包经营权的保护

第二十六条 【承包权的合理收回】承包期内, 发包方不得收回承包地。

承包期内, 承包方全家迁入小城镇落户的, 应当按照承包方的意愿, 保留其土地承包经营权或者允许其依法进行土地承包经营权流转。

承包期内, 承包方全家迁入设区的市, 转为非农业户口的, 应当将承包的耕地和草地交回发包方。承包方不交回的, 发包方可以收回承包的耕地和草地。

承包期内, 承包方交回承包地或者发包方依法收回承包地时, 承包方对其在承包地上投入而提高土地生产能力的, 有权获得相应的补偿。

第二十七条 【承包权的合理调整】承包期内, 发包方不得调整承包地。

承包期内, 因自然灾害严重毁损承包地等特殊情形对个别农户之间承包的耕地和草地需要适当调整的, 必须经本集体经济组织成员的村民会议三分之二以上成员或者三分之二以上村民代表的同意, 并报乡(镇)人民政府和县级人民政府农业等行政主管部门批准。承包合同中约定不得调整的, 按照其约定。

第二十八条 【可用于调整承包的土地】下列土地用于调整承包土地或者承包给新增人口:

- (一) 集体经济组织依法预留的机动地;
- (二) 通过依法开垦等方式增加的;
- (三) 承包方依法、自愿交回的。



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Article 29 Within the duration of the contract, the contractor may voluntarily give the contracted land back to the party awarding the land. If the contract-undertaking party does so, it shall advise the party that awards the land in written form half a year in advance. If the contract-undertaking party returns the contracted land within the duration of the contract, it shall not require any land to be contracted to him.

Article 30 Within the duration of the contract, if a woman gets married but no land is contracted to her in her new domicile, the party that lets the land shall not withdraw the land originally contracted to her; if a woman gets divorced or becomes a widow, but she still resides in the original place or although she resides in a new place but it fails to contract land to her, the party that let land to her shall not withdraw the land originally contracted to her, either.

Article 31 Benefits obtained from the contracted land by the contract-undertaking party shall be inherited in accordance with the provisions of the Succession Law of the People's Republic of China. In the case a contractor of forestland deceases during the term of a contract, the successor of the deceased contractor may continue the contract within the term of the contract.

Section 5 Circulation of the Right to Operate Contracted land

Article 32 Right to operate the contracted land obtained through the contracting by households may in accordance with the law be circulated by means of subcontract, lease, exchange, or transfer or by other means.

Article 33 The following principles shall be abided by in the circulation of right to operate the contracted land:

- (1) Exercising equal consultation, voluntariness, making compensation; no organizations or individuals shall force the contract-undertaking party to circulate the contracted land or prevent him from do so;
- (2) The nature of the ownership of the contracted land and its use for agriculture shall not be altered;
- (3) The term for the circulated contract shall not exceed the surplus of the duration of the contract already concluded;
- (4) The party to whom the land is transferred shall have the operation capability; and
- (5) Under the same condition members of the economic organizations of the said collective shall be entitled the priority.

Article 34 The subject of the circulation of the right to operate the contracted land shall be the party to whom the land is contracted. The contract-undertaking party shall have the right to decide by itself whether to circulate the contracted land or not according to the law and to decide upon the ways of circulation.

Article 35 Within the duration of the contract, the party that lets the contract shall not rescind the contract unilaterally; nor shall it coerce the contract-undertaking party to abandon or modify the right to operate the contracted land by falsely exercising the practice that the minority should be obedient to the minority; nor shall it withdraw the contracted land, which will be exclusively used as land to be separated for grain ration field or responsibility field, so as to recontract the said land through bid invitation; nor shall it withdraw the contracted land so as to compensate for debts.

Article 36 Fees of circulation of right to operate the contracted land through such means as subcontract, lease, transfer shall be determined by both parties through consultation. Remuneration from the circulation shall be owned by the party that undertakes the contract. No organizations or individuals shall intercept or deduct the remuneration without authorization.

Article 37 If the right to operate the contracted land has to be circulated by such means as subcontract, lease, exchange, transfer or by other means, a contract in written form shall be signed by both parties; if the circulation is fulfilled by means of transfer, such a matter shall be subject to the agreement of the party that lets the contract. If the circulation is fulfilled by subcontract, lease, exchange, or other means, it shall be submitted to the party that lets the contract for record. A contract to circulate the right to operate the contracted land shall, in general, include the following terms:

- (1) Name and domicile of both parties;
- (2) Name, location, size, and quality grade of the circulated land;
- (3) Duration of the circulation, and beginning and terminating dates of such circulation;
- (4) Purposes of use of the circulated land;
- (5) Rights and obligations of both parties;
- (6) Price at which the land is circulated, and the way to pay the price; and
- (7) Liability for breach of contract.

Article 38 In the event that the circulation of the right to operate the land contract is realized through exchange or transfer, if the parties require that the circulation be registered, an application for register shall

第二十九条 【自动交回承包地】承包期内，承包方可以自愿将承包地交回发包方。承包方自愿交回承包地的，应当提前半年以书面形式通知发包方。承包方在承包期内交回承包地的，在承包期内不得再要求承包土地。

第三十条 【妇女婚姻状况变更不影响承包权】承包期内，妇女结婚，在新居住地未取得承包地的，发包方不得收回其原承包地；妇女离婚或者丧偶，仍在原居住地生活或者不在原居住地生活但在新居住地未取得承包地的，发包方不得收回其原承包地。

第三十一条 【承包继承】承包人应得的承包收益，依照继承法的规定继承。林地承包的承包人死亡，其继承人可以在承包期内继续承包。

第五节 土地承包经营权的流转

第三十二条 【承包权流转方式】通过家庭承包取得的土地承包经营权可以依法采取转包、出租、互换、转让或者其他方式流转。

第三十三条 【流转原则】土地承包经营权流转应当遵循以下原则：

- (一) 平等协商、自愿、有偿，任何组织和个人不得强迫或者阻碍承包方进行土地承包经营权流转；
- (二) 不得改变土地所有权的性质和土地的农业用途；
- (三) 流转的期限不得超过承包期的剩余期限；
- (四) 受让方须有农业经营能力；
- (五) 在同等条件下，本集体经济组织成员享有优先权。

第三十四条 【流转主体自主权】土地承包经营权流转的主体是承包方。承包方有权依法自主决定土地承包经营权是否流转和流转的方式。

第三十五条 【发包方不得单方解除合同】承包期内，发包方不得单方面解除承包合同，不得假借少数服从多数强迫承包方放弃或者变更土地承包经营权，不得以划分“口粮田”和“责任田”等为理由收回承包地搞招标承包，不得将承包地收回抵顶欠款。

第三十六条 【流转费用及收益归属】土地承包经营权流转的转包费、租金、转让费等，应当由当事人双方协商确定。流转的收益归承包方所有，任何组织和个人不得擅自截留、扣缴。

第三十七条 【流转合同的签订、备案及内容】土地承包经营权采取转包、出租、互换、转让或者其他方式流转，当事人双方应当签订书面合同。采取转让方式流转的，应当经发包方同意；采取转包、出租、互换或者其他方式流转的，应当报发包方备案。土地承包经营权流转合同一般包括以下条款：

- (一) 双方当事人的姓名、住所；
- (二) 流转土地的名称、坐落、面积、质量等级；
- (三) 流转的期限和起止日期；
- (四) 流转土地的用途；
- (五) 双方当事人的权利和义务；
- (六) 流转价款及支付方式；
- (七) 违约责任。

第三十八条 【流转合同登记】土地承包经营权采取互换、转让方式流转，当事人要求登记的，应当向县级以上地方人民政府申请登记。未经登记，不得对抗善意第三人。



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be submitted to the local people's governments at or above the county level. Without being registered, neither party shall resist the bona fide third party.

Article 39 The contractor may, within a certain time limit, subcontract or lease the right to operate the contracted land partially or wholly to a third party, which shall not alter the contracting relationship between both parties.

If the contract-undertaking party assigns the land to a third party to cultivate it for less than one year, no written contract is compulsory.

Article 40 For the sake of cultivation or other various demands, contract-undertaking parties of the same economic organization of collectives may exchange the right to operate the contracted land that belongs to the said economic organization.

Article 41 If the contract-undertaking party has non-agricultural occupations or has stable income resources, it may transfer, upon the consent of the party that lets the land, part or all of its contracted land to other households that are engaged in agricultural production operation, which shall establish a new contract with the party that lets contracting. As a result, the old contract between the original contract-undertaking party and the contract-letting party shall terminate simultaneously.

Article 42 For the purpose of developing agricultural economy, different contract-undertaking parties may, at their free will, establish a joint group to which they contribute their right to operate the contracted land, and engage in joint agricultural production.

Article 43 If the input of the contract-undertaking party to the land increases its production fertility, it may be entitled to relevant compensation when the circulation of the operation right to the land contract is realized.

Chapter III Contracting Concluded by Other Means

Article 44 The present Law shall be applicable to the contracting established by means of auction, bid invitation, or open consultation for pieces of rural land such as barren mountains, waste ditches, barren hills and waste beaches which are not suitable for contracting by households.

Article 45 In the case that the rural land is contracted through other means, a contract shall be signed, in which such matters as the rights and obligations of both parties, and the term of the contract shall be agreed upon through consultation. In the case that land is contracted through auction or bid, the fees of the contract shall be determined by public bidding object or price bidding; in the case that a contract is concluded through open consultation, the fee of the contract shall be determined through mutual consent.

Article 46 Rural land such as barren mountains, waste ditches, barren hills and waste beaches may be contracted for operation directly through bid invitation, auction, open consultation or other means. Or contracted operation or contractual joint operation may be fulfilled after the right to operate such lands is divided into shares which shall be distributed among the members of the economic organizations of the collectives.

Contracting for barren mountains, waste ditches, barren hills and waste beaches shall be undertaken in accordance with relevant laws, administrative regulations, and shall be in conformity with the prevention of soil erosion and protection of ecological environment.

Article 47 In the event that rural land is contracted through other means, members of the economic organizations of the collectives of the land shall enjoy priority to operation right under the same condition.

Article 48 If the contract-letting party contracting its land to units or individuals that do not belong to the economic organization of the said collectives, the contract shall have met in advance the consent of at least two-thirds of the members of the villages assembly or of the representatives of villagers, and the contract shall be submitted to the people's government of the township (town) for approval. In the case that land is contracted to units or individuals that do not belong to the economic organization of the said collectives, the contract-taking party's credit and operation capability shall be examined before the establishment of the contract.

Article 49 In the event that rural land is contracted through such means as bid invitation, auction, and open consultation, if upon legitimate registration, certificate of the right to operate the contracted land or certificate of right to operate the forest land are entitled, the former right may according to the law be transferred, leased, used as shares or mortgages, or be circulated in other ways.

Article 50 In the event that rural land is contracted through such means as bid invitation, auction, and open consultation, if the contractor deceases, the remuneration out of the contract that should belong to the deceased contractor, shall be inherited in accordance with the provisions of the Succession Law of the People's Republic of China; within the term of the contract, successors of the deceased may continue to fulfill the contract.

Chapter IV Settlement of Disputes and Legal Responsibility

Article 51 Where a dispute over the operation of contracted land arises, the parties may seek settlement through consultation between them, or through mediation by villagers' committee or by people's

第三十九条 【一定期限内的转包不影响原承包关系】承包方可以在一定期限内将部分或者全部土地承包经营权转包或者出租给第三方，承包方与发包方的承包关系不变。承包方将土地交由他人代耕不超过一年的，可以不签订书面合同。

第四十条 【承包权互换】承包方之间为方便耕种或者各自需要，可以对属于同一集体经济组织的土地的土地承包经营权进行互换。

第四十一条 【经营权转征后原承包关系终止】承包方有稳定的非农职业或者有稳定的收入来源的，经发包方同意，可以将全部或者部分土地承包经营权转让给其他从事农业生产经营的农户，由该农户同发包方确立新的承包关系，原承包方与发包方在该土地上的承包关系即行终止。

第四十二条 【经营权入股】承包方之间为发展农业经济，可以自愿联合将土地承包经营权入股，从事农业合作生产。

第四十三条 【流转补偿】承包方对其在承包地上投入而提高土地生产能力的，土地承包经营权依法流转时有获得相应的补偿。

第三章 其他方式的承包

第四十四条 【其他承包方式的法律适用】不宜采取家庭承包方式的荒山、荒沟、荒丘、荒滩等农村土地，通过招标、拍卖、公开协商等方式承包的，适用本章规定。

第四十五条 【承包合同内容的协商】以其他方式承包农村土地的，应当签订承包合同。当事人的权利和义务、承包期限等，由双方协商确定。以招标、拍卖方式承包的，承包费通过公开竞标、竞价确定；以公开协商等方式承包的，承包费由双方议定。

第四十六条 【承包或股份经营】荒山、荒沟、荒丘、荒滩等可以直接通过招标、拍卖、公开协商等方式实行承包经营，也可以将土地承包经营权折股分给本集体经济组织成员后，再实行承包经营或者股份合作经营。承包荒山、荒沟、荒丘、荒滩的，应当遵守有关法律、行政法规的规定，防止水土流失，保护生态环境。

第四十七条 【优先承包权】以其他方式承包农村土地，在同等条件下，本集体经济组织成员享有优先承包权。

第四十八条 【本集体经济组织以外单位、个人的承包】发包方将农村土地发包给本集体经济组织以外的单位或者个人承包，应当事先经本集体经济组织成员的村民会议三分之二以上成员或者三分之二以上村民代表的同意，并报乡（镇）人民政府批准。由本集体经济组织以外的单位或者个人承包的，应当对承包方的资信情况和经营能力进行审查后，再签订承包合同。

第四十九条 【允许承包流转】通过招标、拍卖、公开协商等方式承包农村土地，经依法登记取得土地承包经营权证或者林权证等证书的，其土地承包经营权可以依法采取转让、出租、入股、抵押或者其他方式流转。

第五十条 【允许承包继承】土地承包经营权通过招标、拍卖、公开协商等方式取得的，该承包人死亡，其应得的承包收益，依照继承法的规定继承；在承包期内，其继承人可以继续承包。



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第四章 争议的解决和法律责任

第五十一条 【承包纠纷解决方式】因土地承包经营发生纠纷的，双方当事人可以通过协商解决，也可以请求村民

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government of township (town).

If the parties refuse consultation or mediation, or if consultation or mediation fails, they may apply for arbitration to the arbitration organ of rural land contract, or they may directly bring a suit before the people's court.

Article 52 If a party refuses to accept the arbitration award rendered by an arbitration organ of the rural land contract, it may bring a suit before the people's court within 30 days from the date when it receives the arbitration award. If no suit is brought to the people's court upon the expiration of the time limit, the arbitration award shall come into force.

Article 53 Any unit or organization that infringe upon the contract-undertaking party's right to operate the contracted land shall bear civil liability.

Article 54 If the party that lets the contract carries out any of the following activities, he shall bear civil liabilities like cessation of infringements, return of original materials, rehabilitation of original condition, removal of obstacles, elimination of dangers, or compensation for losses:

- (1) Interfering with the decision-making right of production and operation enjoyed by the contract-undertaking party according to the law;
- (2) Withdrawing or readjusting the contracted land in violation with the provisions described by the present Law;
- (3) Forcing or preventing circulation of operation right of land contract by the contract-undertaking party;
- (4) Forcing the contract-undertaking party to circulate the operation right of land contract by means of giving up or modifying the operation right by falsely practicing that the minority shall obey the majority;
- (5) Withdrawing the contracted land by exclusively using it as land to be separated for grain ration field and responsibility field, so as to recontract it through bid invitation;
- (6) Withdrawing the contracted land as a compensation for debts;
- (7) Exploiting or encroaching upon women's right to operate the land contract; and
- (8) Infringing upon right to operate the contracted land in other ways.

Article 55 Compulsory agreement established in a contract which is in violation of the contract-undertaking party's free will, or in violation of the provisions of laws or administrative regulations which stipulate that no withdrawal or readjustment of contracted land shall be performed shall be null and void.

Article 56 If a party fails to perform its duty or fails to perform its duty in conformity with the agreement conclude in the contract, it shall bear liability for breach of the contract in accordance with the provisions of the Contract Law of the People's Republic of China.

Article 57 Where any unit or individual forces the contract-undertaking party to practice circulation of the operation right of the land contract, such circulation shall be null and void.

Article 58 Where any unit or individual intercepts or deducts the remuneration out of the circulation of the operation right of land contract, the remuneration shall be returned.

Article 59 If anyone who, in violation of provisions of the laws and administrative regulations on land administration, illegally requisitions land, or uses land, or misappropriates compensatory capitals for the requisition of land, and if his case constitutes a crime, he shall be investigated for criminal responsibility in accordance with law; if he imposes infringement upon others, he shall be responsible for the damages and losses.

Article 60 If a contract-undertaking party, in violation of law, uses the contracted land for non-agricultural construction, he shall be given administrative sanctions in accordance with law by relevant administrative organs of the local people's governments at or above the level of county.

If the contractor causes permanent damages to the contracted land, the party that lets the contract shall have the right to check up the damages, and shall have the right to demand compensation for such damages from the party that undertakes the contract.

Article 61 If state organs and their functionaries, by using their functions and powers, undertake such acts that infringe upon the operation right as intervening with the contract of rural land, modification or elimination of contracting, or intervening with the contractor's decision-making operation right of production and operation, or forcing, preventing circulation of the contractor's operation of the land contract, and if the infringement causes damages to the contract-undertaking party, they shall be responsible for compensation for the damages; if the infringement is serious enough, they shall be given administrative sanctions by the organ at their next higher level, or the people who are directly be in charge of the infringement shall be given administrative sanctions by the units to which they belong; if the case constitutes a crime, they shall be investigated for criminal responsibility in accordance with law.

Chapter V Supplementary Provisions

委员会、乡（镇）人民政府等调解解决。

当事人不愿协商、调解或者协商、调解不成的，可以向农村土地承包仲裁机构申请仲裁，也可以直接向人民法院起诉。

第五十二条 【不服仲裁的起诉】当事人对农村土地承包仲裁机构的仲裁裁决不服的，可以在收到裁决书之日起三十日内向人民法院起诉。逾期不起诉的，裁决书即发生法律效力。

第五十三条 【侵权民事责任】任何组织和个人侵害承包方的土地承包经营权的，应当承担民事责任。

第五十四条 【发包方的侵权责任】发包方有下列行为之一的，应当承担停止侵害、返还原物、恢复原状、排除妨害、消除危险、赔偿损失等民事责任：

- (一) 干涉承包方依法享有的生产经营自主权；
- (二) 违反本法规定收回、调整承包地；
- (三) 强迫或者阻碍承包方进行土地承包经营权流转；
- (四) 假借少数服从多数强迫承包方放弃或者变更土地承包经营权而进行土地承包经营权流转；
- (五) 以划分“口粮田”和“责任田”等为由收回承包地搞招标承包；
- (六) 将承包地收回抵顶欠款；
- (七) 剥夺、侵害妇女依法享有的土地承包经营权；
- (八) 其他侵害土地承包经营权的行為。

第五十五条 【违反约定无效】承包合同中违背承包方意愿或者违反法律、行政法规有关不得收回、调整承包地等强制性规定的约定无效。

第五十六条 【违约责任】当事人一方不履行合同义务或者履行义务不符合约定的，应当依照《中华人民共和国合同法》的规定承担违约责任。

第五十七条 【强迫流转无效】任何组织和个人强迫承包方进行土地承包经营权流转的，该流转无效。

第五十八条 【流转收益的退还】任何组织和个人擅自截留、扣缴土地承包经营权流转收益的，应当退还。

第五十九条 【刑事责任】违反土地管理法规，非法征用、占用土地或者贪污、挪用土地征用补偿费用，构成犯罪的，依法追究刑事责任；造成他人损害的，应当承担损害赔偿等责任。

第六十条 【承包方的违法责任】承包方违法将承包地用于非农建设的，由县级以上地方人民政府有关行政主管部门依法予以处罚。

承包方给承包地造成永久性损害的，发包方有权制止，并有权要求承包方赔偿由此造成的损失。

第六十一条 【国家机关及其工作人员的违法责任】国家机关及其工作人员有利用职权干涉农村土地承包，变更、解除承包合同，干涉承包方依法享有的生产经营自主权，或者强迫、阻碍承包方进行土地承包经营权流转等侵害土地承包经营权的行為，给承包方造成损失的，应当承担损害赔偿责任；情节严重的，由上级机关或者所在单位给予直接责任人员行政处分；构成犯罪的，依法追究刑事责任。



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第五章 附则

Article 62 If prior to the implementation of the present Law, rural land has been contracted in accordance with relevant laws of the State, whose duration exceeds the duration that is stipulated in the present Law, the contract shall remain effective and no contract shall be concluded again. If no certificates of right to operate land contract or certificates of forestland has been issued, such certificates shall be issued.

Article 63 If, prior to the implementation of the present Law, mobile land is reserved, the size of such reserved land shall not exceed 5 percent of the total land of the economic organizations of the collectives. If the reserved land takes up less than 5 percent of the total land, no more mobile land shall be added. If, prior to the implementation of the present Law, no mobile land is reserved, no such land shall be reserved when the present Law comes into effect.

Article 64 Standing Committees of the National People's Congress of provinces, autonomous regions, and municipalities directly under the Central Government may, in accordance with the present Law, and in light of their respective practical situations, make up plans for the implementation of the present Law.

Article 65 The present Law shall come into force as of March 1, 2003.

第六十二条 【本法施行前的承包效力】本法实施前已经按照国家有关农村土地承包的规定承包, 包括承包期限长于本法规定的, 本法实施后继续有效, 不得重新承包土地。未向承包方颁发土地承包经营权证或者林权证等证书的, 应当补发证书。

第六十三条 【机动地】本法实施前已经预留机动地的, 机动地面积不得超过本集体经济组织耕地总面积的百分之五。不足百分之五的, 不得再增加机动地。本法实施前未留机动地的, 本法实施后不得再留机动地。

第六十四条 【实施办法】各省、自治区、直辖市人民代表大会常务委员会可以根据本法, 结合本行政区域的实际情况, 制定实施办法。

第六十五条 【施行日期】本法自2003年3月1日起施行。

【法宝引证码】CLI.1.41762(EN) 北大法宝en.pkulaw.cn

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