

the assembly may resolve to initiate legal proceedings for an injunction (Art. 57(1 to 3)).

b. If it is difficult to maintain the common life of the condominium proprietors through measure *a.*, the proprietors or incorporated managing union may, by a special vote of the assembly, demand a court decision to prohibit the offender from use of his exclusively owned portion (Art. 58).

c. If it still is difficult to maintain the common life through measure *b.*, an action may be brought, again by a special vote of the assembly, to demand a sale by auction of the offender's exclusively owned portion and site use (Art. 59).

d. If an occupant, e.g. a lessee, has acted in contravention of his obligations and if it is difficult to maintain the common life of the other proprietors through other measures, all the proprietors or incorporated managing union may, by a special vote of the assembly, demand through legal proceedings that the offender should cancel his lease contract and turn over the exclusively owned portion (Art. 60).

Through the measures cited above, it is expected that the provision (Art. 6(1)) prohibiting injurious acts by a condominium proprietor will have real impact.

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### **3. Commercial Law**

#### **1. Legislative Project for Regulation of Small or Closely-Held Corporations.**

Following the amending Act of 1981 on the Corporation Law (*cf.* Vol. 3 of this bulletin, p. 121), the Commercial Law Division of the Legislative Council, an advisory body to the Minister of

Justice, undertook preparatory work for enactments of and amendments to Justice Ministry Ordinances in connection with the new corporation law amendment (*cf.* Vol. 4 of this bulletin, p. 23). The Division also worked on amendments to the Act on the Limitation of Liability of Owners of Seagoing Ships (*cf.* Vol. 4 of this bulletin, p.24) and the creation of the Central Depositary System for Securities (enacted as the Share Custody and Transfer Act (Law No. 30, 1984)). Since late 1982, the regulation of small or closely-held corporations has been discussed within the Division, as part of the overall reform of corporation law commenced by the amendment of 1981.

In Japan, the overwhelming majority of stock corporations (*kabushiki-kaisha*) consists of small or closely-held corporations, where legal regulations designed for large or publicly-held corporations are not expected to be observed. As a result, the validity of transfers of shares made prior to the issuance of certificates, or of elections of directors at shareholders' meetings, are very frequently contested in court. Also, in such corporations financial resources are often insufficient for current needs, with the result that corporate creditors often hold shareholders and directors personally responsible for corporate liabilities by "piercing the corporate veil," or on statutory grounds of the directors' liability to third parties (§266-3).

These unfortunate phenomena exist partly because existing provisions were designed for large or publicly-held corporations and are thus too rigid, strict and complicated for small or closed corporations to comply with. Accordingly, the Commercial Law Division of the Legislative Council has proposed to establish more feasible and workable regulations for small or closely-held corporations. The goal is to assure such corporations a healthy and effective legal framework for management and operations.

## **2. The Act Providing Temporary Measures for Structural Improvements in Specific Industries.**

In order to ease the difficulties of structurally depressed industries by freezing utilization of excess capacity, and to assist

them in restoring the profitability which had severely declined since the first oil crisis, the Act Providing Temporary Measures for Stabilization of Specific Depressed Industry (Law No. 44, 1978) was enacted in May 1978. This Act expired in May 1983. It was succeeded by the Act Providing Temporary Measures for Structural Improvements in Specific Industries (Law No. 53, 1983), which is also effective for only five years.

When a particular industry is designated as a “specific industry” by Cabinet Ordinance, the competent minister is obliged to establish a Basic Structural Improvement Program for that industry. When the minister in question believes that the measures contained in the Program cannot be implemented through private entrepreneurs’ own initiatives and efforts, he may order industry entrepreneurs, with the consent of the Fair Trade Commission, to take joint actions. Such joint actions are exempted from the application of the Antimonopoly Act.

The minister so acting may also approve a business collaboration plan, which is generally prepared by two or more entrepreneurs in the specific industry and aims to achieve its structural improvement. Before the minister approves a business collaboration plan, he may be required to hold prior consultations with the Fair Trade Commission. Plans for business collaboration are not generally exempted from the application of the Antimonopoly Act.

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