

## DRAFT LAW OF UKRAINE

### ON STATE REGISTRATION OF RIGHTS TO REAL PROPERTY

This Law identifies legal, economic, organizational foundations for registering rights to real property, and is aimed at ensuring the recognition and protection by the state of such rights and creation of preconditions for the realty market operation.

- technical inventory (real property description): examination, measurement and appraisal of the real property object determining therewith its technical condition and execution of proper documentation.



The Regulation On the Local Bodies of State Registration of Rights shall be subject to approval by the Ministry of Justice of Ukraine.

#### Article 8. State Registrar of Rights

A person appointed for the office of the state registrar of rights shall have a higher education degree in law and having passed an at least six-month internship with a body of state registration of rights, having passed a qualification test and having received a certificate of the state registrar issued to a prescribed form by the Ministry of Justice of Ukraine.

The state registrar of rights shall:

- o determine the compatibility of the claimed rights and submitted documents with requirements of applicable laws, as well as absence of inconsistencies between the claimed and registered rights to a real property object, as well as other grounds for denial of the state registration of rights or its termination;
- o make a decision on the state registration of rights, on the state registration denial, its termination, on the state registration of encumbrances imposed on the rights, on the annulment, redemption and amendment of records entered into the State Registry of Rights;
- o open and close chapters of the State Registry of Rights, enter relevant changes in it;
- o award a registration number to a real property object during the state registration of the ownership right to it, and at the time of opening an appropriate chapter of the State Registry of Rights, annul and redeem the registration number in the event of its closure;
- o make a decision on issuing or denial of an excerpt from the State Registry of Rights;
- o perform such other responsibilities as provided herein or in the Regulation of the State Registrar of Rights.

The state registrar of rights shall have no right to make a decision on the state registration of rights in his/her own name and on his/her behalf, nor in the name or on behalf of his/her spouse, relatives (parents, children, grandparents and siblings). In the latter event, a decision on the state registration shall be performed by another state registrar of a respective local body of state registration of rights.

The Regulation On the State Registrar of Rights shall be approved by the Ministry of Justice of Ukraine.

Any intervention in the operation of the State Registrar of Rights with respect to the state registration of rights not envisaged by the law shall be prohibited and shall entail liability to the extent provided for by the law.

#### Article 9. Qualification Commissions of State Registrars of Rights

A qualification commissions of state registrars of rights shall be created within the structure of the Ministry of Justice of Ukraine for the purposes of assessing the level of professional qualification of persons intending to obtain a certificate of the state registrar of rights.

The Regulation On Qualification Commissions of State Registrars of Rights shall be approved by the Ministry of Justice of Ukraine.

#### Article 10. Structure of the State Registry of Rights

The State Registry of Rights shall contain text-format data (records) on the registered rights and encumbrances, on subjects of rights, objects of real property, rights-establishing documents based on which the state registration was effected, map-making (graphical) data. The data base of applications, requests and registration files shall constitute an inseverable part of the State Registry of Rights.

The data of the State Land and State Urban Development Cadastres, State Mapping and Geodesy Fund of Ukraine as well as other official sources of information shall serve sources of information for the functioning of State Registry of Rights.

The data pertaining to land plots shall be entered into the State Registry of Rights from the State Land Cadastre and the State Land Registry that are kept and held by State Committee for Land Resources of Ukraine.

The State Registry of Rights shall be stored for an indefinite period of time and no destruction or extraction any documents or data shall be allowed.

The State Registry of Rights ensures its eternal storage and accurate information its protection against unauthorized access, updating, archiving and restoration of data, the input search and document reproduction of the procedure of state registration of rights, provision, without delays, of excerpts from the State Registry of Rights.

The Ministry of Justice of Ukraine shall serve as a repository of the State Registry of Rights.

The procedure of maintaining the State Registry of Rights and provision of data contains therein shall be determined by the Ministry of Justice of Ukraine.

#### Article 11. Text Data of the State Registry of Rights

The text data of the State Registry of Rights shall consist of chapters opened for each individual real property object at the time of registering the right of ownership to such an object.

Each chapter of the State Registry of Rights shall consist of parts each of which shall contain records on the real property, on the right of ownership thereto, on limited property rights and encumbrances.

The records on the real property shall contain the following data:

- o registration number of the entry;
- o registration number of a real property object and information on its location;
- o data on the real property designation;
- o real property description (data on the land plot dimensions, buildings, its parts, structures and other specifications to be listed under applicable legal and regulatory acts);

- o value of the real property;
- o date of entering records and date of amending records;
- o family name of a state registrar of rights and date of decision on the state registration of rights.

The records on the right to real property shall contain:

- o registration number of the entry;
- o for natural persons – citizens of Ukraine: full name, date and place of birth, permanent residence address, identification number in the State Registry of Natural Persons Paying Taxes and Other Mandatory Charges, identification document details; for natural persons being foreign nationals: full name, data on permanent residence outside of Ukraine, identification document details;
- o for resident legal entities: name, location, code of Single State Registry of Enterprises and Organizations of Ukraine; for non-resident legal entities: name and location indicating the country where the legal entity was registered;
- o type of joint activity and amounts of shares to the extent that the property is owned subject to a joint ownership arrangement;
- o grounds for emergence of the ownership rights;
- o date of entering records and date of amending records;
- o family name of a state registrar of rights and date of decision.

The records on the limited property rights and encumbrances shall contain:

- o registration number of the entry;
- o contents of the limited property rights and encumbrances and period of their effect insofar as such period is stipulated by an agreement;
- o grounds for emergence of a limited property right and encumbrance;
- o data of the limited property right subject;
- o in case of mortgage registration – its value;
- o time and date of entering, redemption, annulment and amendment of records;
- o family name of a state registrar of rights and date of decision on the state registration of rights.

#### Article 12. Mapping Data of State Registry of Rights

Mapping (graphical) data of the State Registry of Rights shall be composed of index maps and cadastre plans. These data are designed for determining boundaries of registration districts, real property identification, reflection of the real property object interlocation, information management organization and oversight of the state registration of rights.

The procedure of drawing up, approval and requirements for index maps and cadastre plans shall be established by a competent executive power and natural resources management authority.

#### Article 13. Data Base of Applications and Queries of the State Registry of Rights

Applications requesting the state registration of rights and encumbrances established in connection therewith, as well as queries to the effect of provision of excer

The applications registration data shall include:

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- o acts of respective authorities or officials imposing an encumbrance;
- o powers of attorney authorizing respective actions;
- o documents attesting to the fact of payment of for the state registration of rights;
- o information on the provided excerpts from the State Registry of Rights;
- o other documents serving grounds for making a decision by the state registrar of rights.

The documents in the registration file shall be positioned in the order of their arrival and shall bear sequential numbering.

Removal of documents from the registration file shall be disallowed other than in cases when explicitly required under the law.

Registration files shall be stored for an indefinite period of time in archives formed with local authorities of state registration .

The procedure of maintaining archives shall be determined by the Ministry of Justice of Ukraine subject to the approval of specially empowered central executive power body having jurisdiction over archives.

#### Chapter IV. PROCEDURE OF STATE REGISTRATION OF RIGHTS

##### Article 15. Procedure of State Registration of Rights to Real Property

The state registration of rights to real property shall follow the below described procedure:

- o acceptance and review of documents and rights submitted for the state registration, registration of an application to the State Registry of Rights;
- o determination of the absence of grounds for the state registration denial or terminations;
- o making a decision on the state registration, its denial or termination;
- o entering records in the State Registry of Rights;
- o provision of excerpts from the State Registry of Rights concerning the registered rights.

The state registration of rights shall be effected following the technical inventory of the real property object and/or cadastre taping, the rights with respect to which are subject to the state registration.

The sole subject of registration shall be the claimed rights conditional on their compliance with laws and the submitted rights establishing documents.

The application review and making a decision on the state registration of the right, its denial or termination shall meet the deadlines not exceeding one month following the date of receipt by the state registration authority of an application and documents required for the state registration of rights.

In the event that more than one application to the same property object appear to be filed with a local state registration authority, all applications shall be reviewed in the order of their submission. In so doing, the local state



registration authority shall review each sequential application exclusively after the decision of the state registrar with respect to the preceding application has been rendered and appropriate records have entered.

The date and time of the state registration of rights as indicated in the state registrar's decision shall be the date and time of the respective application's registration.

#### Article 16. Filing Documents for Purposes of State Registration of Rights

The state registration of rights shall be effected subject to the application of rights holder (rights successor, party (parties) to an agreement under the right arises, persons authorized by them.

At the time of filing an application requesting the state registration of rights, a natural person must present an identification document; in the event that an application is filed by a representative of a natural person or a legal entity, such representative shall be obliged to present a document attesting to his/her authority to act on behalf of such persons. Persons representing non-residents of Ukraine must present duly legalized documents.

An application requesting the state registration shall be filed with local authority of state registration of rights having the jurisdiction over the territory where the real property object or a major part thereof is located.

In order to have the presence, emergence, termination, transfer of rights to real property registered, an applicant, along with an application requesting the state registration of rights shall file with a relevant local authority of state registration of rights the rights-establishing documents and their copies, as well as other documents in conformity with the Procedure of the State Registration of Rights to Real Property and Provision of Data from the State Registry of Rights.

An application requesting the state registration of rights and rights-establishing documents shall be accompanied by a document attesting to the state duty or registration fee payment.

The registration of application requesting the state registration of encumbrances shall

Texts of documents filed in connection with the state registration of rights must be written clearly, the name of legal entities may not be abbreviated and their domiciliation must be indicated. Names and addresses of natural persons must be provided.

Documents containing erasures or added inscriptions, crossed out words and other prohibited corrections, as well as documents filled out with pencil instead of ink and with notes disabling their reading and explicit interpretation shall not be accepted for the state registration.

#### Article 18. Grounds for State Registration of Rights

The following documents shall constitute grounds for the state registration of the presence, emergence, termination and transfer of rights to real property:

- o acts issued by state power authorities or local self-government bodies within their respective jurisdiction and competence;
- o contracts and other agreements concerning the real property;
- o certificates attesting to the right to inheritance;
- o rulings of the court entered into effect;
- o other rights-establishing documents certifying the right to real property.

#### Article 19. Opening and Closure of Chapters in State Registry of Rights and of Registration Files

A respective chapter in the State Registry of Rights and a respective registration file shall be opened for each real property object the right of ownership to which has been entered for the first time, subject to a decision of the state registrar of rights on the state registration of an ownership right.

A chapter of the State Registry of Rights and a registration file shall be closed subject to the decision of the state registrar of rights in the event of:

- o real property destruction;
- o division and merger of real property.

In the event that a state registrar of rights makes a decision to the effect of the state registration denial, only a registration file shall be opened which is subject to closure upon incorporation therein of respective documents.

Closed registration files shall be stored for an indefinite period of time in local state registration authorities' archives.

#### Article 20. State Registration of Rights in Case of Division or Merger of Real Property Objects

In case of real property objects division a respective chapter of the State Registry of Rights and a respective registration file shall be closed and the registration number of such real property object shall be redeemed. Concurrently, new chapters in the State Registry of Rights and new registration files for newly formed real property objects shall be opened and new registration numbers shall be assigned to the newly formed real property objects.

Records concerning limited property rights and encumbrances, concerning the object being divided shall be transferred to those chapters of the State Registry of Rights which were opened for each of the newly formed objects. Should a

respective agreement or act issued by a relevant authority is that limited property rights and encumbrances do not apply to all newly formed real property objects, records concerning those rights and encumbrances shall only be

Should the applicant meet, within five days following the receipt of the official notice, the requirements of the state registrar of rights, the overall term of reviewing the claim might shall be extended for the respective period of time.

In the event of the applicant's failure to meet the aforementioned requirements, the state registrar shall make a decision

In the event of transfer of the ownership right to a real property object or amendments in the or object's description, its registration number shall remain unchanged.

The procedure of assigning a registration number to a real property object shall be determined by the Ministry of Justice of Ukraine in conjunction with a specially authorized central executive power body having jurisdiction over topographic, geodesic and mapping activities.

Article 26. Entering Records in

o to the court, internal affairs agencies, prosecutor's office, state tax service agencies, Security Service agencies and other state power authorities (officials) to the extent their inquiries are made in connection with their

A compensation fund shall be formed for the purposes of recovering losses suffered through the default of local bodies of the state registration of rights. The Regulation governing such Fund's operation shall be approved by the Cabinet of Ministers of Ukraine.

#### Chapter V. FINAL AND INTERIM PROVISIONS

1. The Law of Ukraine On the State Registration of Rights Real Property shall enter into effect in six months following its promulgation.
2. The rights to real property having emerged prior to the effective date hereof shall be acknowledged by the state.