

A new Law of Ukraine has been recently adopted to prevent the negative impact of the Global Financial Crisis on the development of Ukraine's construction industry and particularly of residential construction.

On 14 January 2009, the Law of Ukraine *On the Prevention of the Impact of the Global Financial Crisis on the Development of the Construction Industry and Residential Construction* (the "Law") entered into force. The Law aims at the support of the Ukrainian construction industry, and primarily residential construction, during the recession of the global economy, as well as the creation of more favorable conditions for developers' activities on the Ukrainian real estate market.

The Law introduces a new category of "affordable dwelling"¹ and envisages certain favorable conditions for developers of affordable residential construction, together with purely financial and credit mechanisms of state support and other favorable conditions, namely:

- the possibility of granting to developers leaseholds to land plots for the development of "affordable dwelling" residential construction without holding auctions, and giving consideration to reducing the level of the land tax rate on such land plots; and
- the release of developers from payment of the legally required shared contribution for the development of the engineering, transport, and social infrastructure.

The Law also contains a number of provisions designed to facilitate the development of the entire residential construction sector (and not only "affordable dwelling" construction), and the construction industry in general. In particular, the Law provides for:

- favorable financing terms for residential construction developers, whose estimated profits will not exceed 15 per cent of the direct and general production costs connected with such construction;

¹ The Law defines "affordable dwelling" as housing constructed with state support, which, in particular, implies the payment by the state of 30 % of the construction cost.

- the possibility for every developer to perform the state registration of ownership rights to objects of unfinished construction and parts thereof, which are needed for their subsequent sale or mortgage;
- the prohibition of financial institutions to increase interest rates under loans obtained by individuals and legal entities for housing purchase or construction;
- the ban on the termination of any agreements resulting in the transfer by developers of completed residential construction objects (or parts thereof), under which 100 per cent of the cost of the object has been paid, except for cases where the parties have agreed upon such termination, or where the commissioning of the construction object is delayed for more than 18 months after the initially announced commissioning date; and
- the right of developers to postpone their payment of the shared contribution for the development of the engineering, transport, and social infrastructure of the municipality, and to postpone their payment of their contributions to the local special purpose funds².

The Law introduces a new type of residential lease, i.e., the “hire purchase”, and implements the corresponding amendments of the Civil Code of Ukraine.

Moreover, the Law amends some other currently effective legislative acts governing different aspects of the operations of the construction industry and the real estate market, in particular:

- the Law of Ukraine *On Mortgage* is amended so that the direct mortgage of objects of unfinished construction and the ownership rights thereto is now allowed;
- the Amendments to the Law of Ukraine *On Investment Activities* determine a new institution to conduct the state examination of construction designs, i.e., the State Enterprise “Specialized State Expert Organization – Central Service of the Ukrainian State Construction Examination”; and they establish that the list of objects, which do not require the approval of their construction design by comprehensive state examination, will be approved by the central executive authority in the area of construction and architecture; and
- the Law of Ukraine *On Planning and Building Development* is amended, so that, in order to obtain a construction works permit, foreign legal entities must submit (apart from the standard documentation) a document confirming the fact that they will involve Ukrainian individuals and legal entities in the performance of at least 90 per cent of the construction-assembly works of the total scope of works; and confirming that at least 50 per cent of the goods and materials used in the course

² This right is exercised by developers based on their applications. The grace period may not exceed the period of the validity of the corresponding duration of the Law, which, at present, is fixed until 1 January 2012.

of the construction, specifically the structural (building) units, will be from Ukrainian domestic sources.

Additional notes

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