

Dz.U.00.74.855

LAW

dated July 13, 2000

on protection of the purchasers of the right to use a building or residential unit for a specified time each year and on amendment to the Civil Code, Code of Minor Offenses, and the Law on Land and Mortgage Registers and Mortgage

(Dz.U. dated September 8, 2000)

Article 1. 1. The Law provides for the rules of protection of a purchaser who, under an agreement entered into for at least three years, obtains from an entrepreneur the right to use a building or residential unit for a specified time each year and agrees to pay the entrepreneur a lump-sum consideration.

2. The purchaser shall be understood as a natural person entering into the agreement outside the scope of the business he or she conducts.

3. The provisions of the Law shall apply to any agreements referred to in Section 1, notwithstanding the nature of the legal relations which are based thereon. The right of the purchaser may be in the form of a personal right, including a claim or a property-related right, in particular the right of usufruct.

Article 2. 1. The entrepreneur shall be obligated to deliver a prospectus prepared in writing to the person interested in entering into the agreement referred to in Article 1, Section 1.

2. The prospectus should be prepared in accordance with the will of the person concerned, in the official language of the state in which such person has his/her place of residence or whose citizen she/he is. If more than one official language is used in such state, the prospectus shall be prepared in one of the languages, chosen by the person concerned. If, however, the purchaser's place of residence is in the Republic of Poland, the prospectus shall at least be prepared in Polish.

3. The announcements, advertisements, price lists and other information pertaining to the agreement referred to in Article 1, Section 1, should provide data on how to obtain the prospectus.

Article 3. 1. The prospectus should at least contain the following:

1) full name and address of the entrepreneur, and if the entrepreneur is a legal person, also its name (business name), seat and address, identification of the legal form of the business conducted, and names of persons authorized to represent the legal person; if the entrepreneur has been recorded in the relevant register, he shall also be obligated to specify the number under which he was registered;

2) if the entrepreneur is not an owner of the building or residential unit, then full name and address of the owner; if the owner is a legal person, its name (business name), seat, address, and the legal basis for the building or residential unit being at the entrepreneur's disposition;

3) specification of the content of the right to use the building or residential unit for a specified time each year, along with indication if the purchaser may exchange, or transfer the right to exercise the above right, and the rules for transfer of the right and costs related thereto;

4) specification of the conditions for the exercise of the right referred to in Item 3, which is required under regulations of the state in which the building or residential unit is located, along with specification if they have been met, and which of them should still be met;

5) identification of the building or residential unit, or indication of the method of their identification from among real properties which are at the entrepreneur's disposition; if the building or residential unit is specified in the prospectus or agreement; then their precise description and location, and if the method of their identification was specified, then a list of buildings or residential units which are at the entrepreneur's disposition;

6) if the right of the purchaser applies to a building or residential unit which is being designed or under construction, then data pertaining to the following:

- a) the progress of the construction works and the status of the infrastructure;
- b) the construction completion date;
- c) the building permit (number of the building permit and identification of the authority that issued the permit, with its address);
- d) the facilities allowing proper use of the real property;
- e) the legal security for the completion of the construction works and for refund of the purchaser's dues, if the construction works are not completed, along with specification of the terms and conditions for enforcement of the security;

7) the data concerning services related to the use of the building or residential unit, in particular its maintenance, waste disposal, supply of water, electricity and gas, and the terms and conditions for use of these utilities;

8) data concerning facilities allocated for common use, including, in particular, the swimming pool, sauna and the terms and conditions for use of the facilities;

9) data concerning the rules for administering the building or residential unit and incurring the costs of its maintenance, repair and general repair;

10) data concerning the amount of the lump-sum consideration for the acquisition of the right, and the basis for calculation of other dues, including charges related to the use of

the real property, in particular the costs of administration, taxes and local fees, costs of repair and general repair;

11) information on the right of the purchaser to withdraw from the agreement, with instruction that a written declaration of will is required for the withdrawal, the time limit in which the right may be exercised, along with instruction that the time limit for withdrawal from the agreement referred to in Article 6, Sections 1 - 3, shall be observed, if, prior to the lapse thereof, the purchaser sends the declaration of will to withdraw from the agreement to the specified address;

12) information on the costs which, if incurred by the entrepreneur in connection with the execution and withdrawal from the agreement, are subject to the purchaser's refund, if he exercises the right to withdraw from the agreement;

13) information on the method of obtaining additional data concerning the agreement proposed.

2. Prior to entry into the agreement referred to in Article 1, Section 1, the entrepreneur may change information and data contained in the prospectus, if the changes result from circumstances beyond the control of the entrepreneur. The entrepreneur should inform the other party in writing of the changes before entry into the agreement.

Article 4. 1. The agreement referred to in Article 1, Section 1, shall contain data and information that are intended for the prospectus in Article 3, Section 1, Items 1-12, with indication which of them were changed within the scope specified in Article 3, Section 2.

2. The agreement referred to in Section 1 shall also contain:

- 1) full name and place of residence of the purchaser;
- 2) identification of the time each year when the purchaser may use the building or residential unit, or determination of the method of identifying the time;
- 3) identification of the building, or residential unit that the purchaser may use, or determination of the method of identifying the building;
- 4) specification of the time for which the agreement was entered into;
- 5) statement that the exercise of the right acquired is not related to any cost, charges, or obligations other than those specified in the agreement;
- 6) identification of the place and date of execution of the agreement by each of the parties thereto.

3. The prospectus shall constitute a part of the agreement. In case of any discrepancy between the content of the agreement and the prospectus, the parties shall be bound by the prospectus, unless amendments have been made to the agreement within the scope referred to in Article 3, Section 2, or have been individually agreed upon. If, however, the prospectus was not delivered to the purchaser prior to entry into the agreement, or was

not prepared in the relevant language pursuant to Article 2, Section 2, the parties should be bound by the agreement only.

Article 5. 1. The agreement should be entered into in writing in order to be valid, unless a different specific form has been reserved for the establishment or transfer of the right resulting in an authorization to use the building, or residential unit.

2. The agreement should be prepared in accordance with the purchaser's will, in the official language of the state where this person's place of residence is located or whose citizen this person is. If more than one official language is used in this state, the agreement should be prepared in one of these languages, at the purchaser's choice. If, however, the purchaser's place of residence is in the Republic of Poland, the agreement should at least be prepared in Polish.

3. The entrepreneur shall be obligated to deliver the instrument of the agreement to the purchaser immediately after it has been entered into. If the language in which the agreement was prepared is not an official language of the state in which the building or residential unit is located, the entrepreneur should also deliver a translation of the agreement into the official language of this state prepared or confirmed by a sworn translator.

Article 6. 1. The purchaser may withdraw from the agreement without giving a reason therefor within ten days from the moment the instrument of the agreement was delivered to him, through submission of a declaration of will in writing on his withdrawal from the agreement to the entrepreneur.

2. If the agreement does not contain any of the data or information referred to in Article 3, Section 1, Items 1-5, Item 6, letters a) and b), Items 10 - 12, and in Article 4, Section 2, then the time limit referred to in Section 1 shall be extended by the period from delivery of the instrument of the agreement to the purchaser until the delivery to the purchaser of a written supplementation containing the missing data, or information. In the event of failure to deliver such missing elements, the time limit referred to in Section 1 shall be extended by three months.

3. If the prospectus was not delivered to the purchaser before delivery of the instrument of the agreement to him, or if the agreement was not prepared in the relevant language pursuant to Article 2, Section 2, then the purchaser should have the right to withdraw from the agreement, as provided for in Section 1, within 3 months from delivery of the instrument of the agreement.

4. The deadline for withdrawal from the agreement referred to in Sections 1 - 3, shall be deemed as met, if the purchaser sends his declaration of will of withdrawal from the agreement to the specified address before the lapse of the deadline.

5. Provisions of Sections 1 - 4 shall also apply to preliminary agreement.

Article 7. 1. If the right to withdraw from the agreement referred to in Article 6 is exercised, the agreement shall be deemed to be non-executed, and the purchaser shall bear no liability towards the entrepreneur.

2. However, the agreement may obligate the purchaser to refund the costs that are necessary to enter into the agreement to the entrepreneur, if the purchaser exercised the right of withdrawal within the time limit referred to in Article 6, Section 1.

Article 8. 1. The entrepreneur may not accept any performance specified in the agreement from the purchaser before the lapse of the deadline for withdrawal from the agreement.

2. If the lump-sum consideration is to be paid in whole or in part using a credit or loan extended by the entrepreneur, or if the agreement provided for using a credit extended under an agreement between the lender and the entrepreneur, then withdrawal from agreement referred to in Article 6 shall also be effective with respect to the credit, or loan agreement that the purchaser entered into.

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Article 9. The provisions of the Law shall apply if the agreement referred to in Article 1, Section 1, or legal relationship constituting the basis for the right to use building or residential unit for a specified time each year, is governed by Polish law pursuant to the provisions of the international private law.

Article 10. If the agreement or the legal relationship referred to in Article 9 is governed by a foreign law, which law does not guarantee that the level of protection of the purchaser will be as stipulated herein, the provisions of the Law shall also be applied in a situation where:

- 1) the building or the residential unit is located in the Republic of Poland, or
- 2) the purchaser has the place of residence in the Republic of Poland;
- 3) the agreement was entered into as a result of handing in the prospectus or making an offer by the entrepreneur in the Republic of Poland; or
- 4) the agreement was entered into as a result of the offer of the purchaser made to the entrepreneur in the Republic of Poland.

Article 11. Rights provided for in Articles 2-10 of the Law cannot be limited or excluded by way of agreement.

Article 12. In the Law dated April 23, 1964 – Civil Code (Dz.U. No. 16, Item 93, of 1971, No. 27, Item 252, of 1976, No. 19, Item 122, of 1982, No. 11, Item 81, No. 19, Item 147, and No. 30, Item 210, of 1984, No. 45, Item 242, of 1985, No. 22, Item 99, of 1989, No. 3, Item 11, of 1990, No. 34, Item 198, No. 55, Item 321, and No. 79, Item 464, of 1991, No. 107, Item 464, and No. 115, Item 496, of 1993, No. 17, Item 78, of 1994, No. 27, Item 96, No. 85, Item 388, and No. 105, Item 509, of 1995, No. 83, Item 417, of 1996, No. 114, Item 542, No. 139, Item 646, and No. 149, Item 703, of 1997, No. 43, Item 272, No. 115, Item 741, No. 117, Item 751, No. 157, Item 1040, of 1998, No. 106, Item 668, No. 117, Item 758, of 1999, No. 52, Item 532, and of 2000, No. 22, Item 271) in Book Two, Title III, Division II, Chapter II, after Article 270, the following Article 270¹ shall be added:

“Article 270¹ § 1. The usufruct consisting in the use of the building or a residential unit on the principles specified in the Law on protection of the purchasers of the right to use a building or residential unit for a specified time each year and on amendment

to the Civil Code, Code of Minor Offenses, and the Law on Land and Mortgage Registers and Mortgage, shall be governed by the provisions of Chapter I and II of this Division, except for the Articles 254-255 and 266.

§ 2. The usufruct referred to in § 1 shall expire no later than upon the lapse of the fifty-year period following its establishment.”

Article 13. In the Law on Land and Mortgage Registers and Mortgage dated July 6, 1982 (Dz.U. No. 19, Item 147, of 1991, No. 22, Item 92, and No. 115, Item 496, of 1994, No. 85, Item 388, of 1996, No. 107, Item 499, of 1997, No. 117, Item 752, No. 137, Item 926, and No. 140, Item 940, and of 1997, No. 106, Item 668) in Article 16, Section 2, the full stop after Item 5 shall be replaced by a comma and followed by the new Item 6:

“6) the right to use the building or residential unit for a specified time each year, as referred to in the Law on protection of the purchasers of the right to use a building or residential unit for a specified time each year and on amendment to the Civil Code, Code of Minor Offenses, and the Law on Land and Mortgage Registers and Mortgage of July 13, 2000 (Dz.U. No. 74, Item 855).”

Article 14. In the Law – Code of Minor Offences dated May 20, 1971 (Dz.U. No.12, Item 114, of 1981, No. 24, Item 124, of 1982, No. 16, Item 125, of 1983, No. 6, Item 35 and No. 44, Item 203, of 1984, No. 54, Item 275, of 1985, No. 14, Item 60, and No. 23, Item 100, of 1986, No. 39, Item 193, of 1988, No. 20, Item 135, and No. 41, Item 324, of 1989, No. 34, Item 180, of 1990, No. 51, Item 297, No. 72, Item 422, and No. 86, Item 504, of 1991, No. 75, Item 332, and No. 91, Item 408, of 1992, No. 24, Item 101, of 1994, No. 123, Item 600, of 1995, No. 6, Item 29, No. 60, Item 310, and No. 95, Item 475, of 1997, No. 54, Item 349, No. 60 Item 369, No. 85, Item 539, No. 98, Item 602, No. 104, Item 661, No. 106, Item 677, No. 111, Item 724, No. 123, Item 779, No. 133, Item 884, and No. 141, Item 942, of 1998, No. 113, Item 717, of 1999, No. 83, Item 931, and No. 101, Item 1178, and of 2000, No. 22, Item 271, and No. 73, Item 852), in Article 60¹ after § 4, the following § 5 and 6 shall be added:

- § 5. Who, within the scope of activity of his own company:
- 1) enters with the purchaser, who is a natural person, into an agreement pursuant to which the latter acquires the right to use the building or the residential unit for a specified time each year without meeting relevant requirements concerning the content or form of such agreement; and
 - 2) demands that the purchaser of the right to use the building or the residential unit for a specified time each year should perform before the expiration of the statutory withdrawal term – shall be liable to the limitation of freedom or fine.
- § 6. Who, when entering into the agreement, pursuant to which the purchaser acquires the right to use the building or the residential unit for a specified time each year in a dishonest way and contrary to the content of the acquired right, states that the agreement concerns the ownership - shall be liable to a fine”.

Article 15. The Law shall enter into force after three months from the date of its promulgation.