

# Tax & Legal Alert

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## Principal provisions of land and construction laws are amended

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The Law of Ukraine *On amendments to the laws of Ukraine on promoting the construction activity # 509-VI* (hereinafter the "Law") has been promulgated on the 14<sup>th</sup> of October this year. The law amends the Civil and Land Codes, and a number of development and construction laws. Generally the amendments are intended to simplify and shorten the development and construction procedure. In particular the law provides for the following innovations:

### LAND ISSUES

- The law stipulates the possibility to dispose land lease rights under the civil transactions, charter capital contributions, putting into pledge or descending for a period not exceeding 50 years.
- The list of exceptions to mandatory land auctions has been significantly extended. From now the state and municipal land may be sold / leased without the auction if it will be used for subsurface resources exploration, airport and utilities construction and maintenance, oil terminals, complex reconstruction of residential districts.
- The law enables land property rights (lease, superficies, and emphyteusis) for state and private land plots to be the subjects of civil transactions.

### CONSTRUCTION ISSUES

- By these amendments the procedure of planning land development has been fundamentally modified.
- Any interested person may request the information on the preferred and acceptable development categories, for any land plot.
- To develop the land, its owner or tenant should file an application to the respective authority to show his land development intention. Provided such intentions correspond to the preferred or acceptable development categories, the authorities provide the applicant with the respective town planning terms and restrictions within two weeks. Otherwise, the authorized body provides the applicant with its report in respect of incurred inconsistency. If the land development plan does not correspond with town planning terms and restrictions the investor is entitled to apply for the respective authority with additional proposals and explanations.

- The law establishes that the project documentation, developed in accordance with the town planning terms and restrictions, is no longer subject to mandatory approval by the local authorities, local departments of cultural heritage protection, nature protection and sanitation service. As stipulated, the project documentation has to be agreed with the companies, institutions and establishments, which issued the technical conditions regarding the engineering maintenance of the buildings only if such conditions could not be met.
- The law sets out the possibility to obtain a permit on the preparatory works to arrange the construction and prepare the building site before starting the construction works. This should spare the time of construction.
- The law envisages a new procedure for placing completed construction projects' into operation, which is performed base on the certificate of conformance issued by the architectural control authority.
- The statutory definition of the subjects of social discussions has been delivered. In addition, the law has clarified the procedure of social discussion decision making, requirements for the participants' involved, financing and other principal matters.
- The maximum amounts of contributions of the investors' attracted funds within share participation schemes of built-up areas' social, transport and engineering infrastructures has been decreased. Overall, it may not exceed 10% of a non-residential building's value and 5% of residential building's value, accordingly. Local government authorities are forbidden to demand any other assets or services from the building owner apart from the share participation.

## COMING INTO EFFECT

Importantly, a set of amendments to the construction laws introduced by the Law will only become effective six months after the effective date of the Law. Namely, provisions regarding the competence of the local governments to permit construction, social discussions of construction, new procedures of planning land development, as well as rules for obtaining the basic data for architectural design will not be immediately introduced.

Pursuant to the provisions of the "miscellaneous" section of the Law, permits on town-planning unit construction, technical conditions of engineering maintenance and the permission to begin construction works granted before the effective date of the above mentioned provisions will remain effective within the period of two years from the Law's effective date. The above mentioned permits and requirements in respect of the construction in progress will remain effective up to its ultimate completion. The decisions of the respective authorities on the construction units' location or construction permit granting, taken but not executed, will remain effective for two years after the effective date of the law.

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