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AMENDMENTS TO THE TENANT'S PRE-EMPTION RIGHT BY LAW NO. 64/2018 OF OCTOBER 29TH

Law no. 64/2018 of October 29th, which has entered into force on October 30th 2018, has amended the Portuguese Civil Code, namely article 1091, that sets forth the tenant's pre-emption right regime.

The main amendments introduced by Law no. 64/2018 are as follows:

1. LEASING IN GENERAL:

- a. The tenant is granted a pre-emption right in the event of sale of the property leased for longer than 2 (two) years. Previously, it was required that the property was leased for at least 3 (three) years;
- b. The tenant's deadline to reply to the communication set forth on article 416, no. 1, of the Portuguese Civil Code (sale project and contractual terms) is now set on 30 (thirty) days after the respective date of reception, instead of the previous 8 (eight) days;

2. RESIDENTIAL LEASING:

- a. In the event of sale of the property along with other goods, pursuant to the terms set forth in article 417 of the Portuguese Civil Code, the communication to the tenant must indicate the individual price of the property and the prices of the other goods to be sold together;
- b. When the owner intends to sell several properties together in a single act and informs that the pre-emption right must be exercised regarding every property, based on the fact that they can't be sold separately without damage, he must prove the existence of such damage, instead of only stating that the parties have

agreed that the business would only be carried out if all properties were sold together;

c. Regarding buildings that are not set up in horizontal property, the tenant is granted the pre-emption right in the same terms set forth for the tenant of a building unit, to be exercised in the following conditions:

i. The right is granted over the share of the building corresponding to the percentage that the leased property represents, for the proportional price of such share over the total price;

ii. The communication set forth in article 416, no. 1, of the Portuguese Civil Code, must indicate the above-mentioned values;

iii. The purchase by the tenant exercising his pre-emption right is performed with the exclusive allocation of the share corresponding to the leased property;

d. In the event that the owner intends to sell a property which is not set up in horizontal property, the respective tenants may exercise their pre-emption rights together, purchasing the real estate proportionally and in co-ownership.

Law no. 64/2018 has strengthened the tenant's pre-emption right, easing up the conditions on which such right can be exercised and granting the tenants of building not set up in horizontal property the same right, which was not the case before its entry into force.

PARES | Advogados is available to provide more client-specific information on the taxation of real estate income and other income related to real estate property.

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