

JANUARY 2020

RIGHT TO DURABLE HOUSING Decree-Law no. 1/2020, of January 9th

On 10 January 2020 Decree-Law no. 1/2020, of 9 January, entered into force, creating and regulating the new right to durable housing [*DHD - direito real de habitação duradoura*], embraced by the New Generation of Housing Policies that aim the improvement of the populations quality of life, assuring the fundamental right to housing.

1. General Scope

The DHD allows one or more persons to reside permanently and for life in a dwelling without having to purchase their own residence. The creation of the DHD, as an instrument of public policy, is thus an alternative for the more vulnerable age groups, for which leasing or purchasing their own residence are not desirable solutions.

2. Formation of the DHD

The DHD is formed by the owner of a dwelling in favour of one or more natural persons that gain the capacity of dwellers, by means of an agreement entered into through public deed or private document and respective registration in the land registry office. The dwelling must be delivered by the owner to the dweller with a medium level of conservation, at least, and free of people, encumbrances and charges, including other rights or real guarantees.

3. Deposit and Compensation

The formation of the DHD requires the dweller to make a deposit before the owner in the amount corresponding to 10% to 20% of the medium value of the property, according to the last update disclosed by the National Statistics Institute. The deposit is made for a period of 30 years, its initial value being reduced 5% per year starting from the 11th year and until the 30th year of validity of the DHD.

Besides the mentioned deposit, the dweller shall pay the owner a monthly sum whose amount is established between the parties, as well as an annual allowance by each year of effective duration from the 11th year and until the end of the 30th year, corresponding to 5 % of the initial deposit deducted from the deposit.

4. Transfer and encumbrance of the dwelling property and the DHD

The property may be freely transferred by the owner to third parties together with the DHD but, with exception to the mortgage, the owner may not form any other rights or real guarantees over it. In the event of transfer of the property to the dweller, this one may use the deposit sums to which is entitled to compensate the obligation to pay the respective price.

The DHD is not transferable by death and, during its term, may only be transferred in the event of execution of the mortgage. The DHD may only be mortgaged by its owner to guarantee the repayment of the credit granted to pay, partially or in whole, the deposit amounts.

5. Term of the right to durable housing

The term of the DHD determines, among others, the obligation of the dweller to deliver the property to the owner, as well as the owner's obligation of return to the dweller the sums to which he is entitled as deposit balance.

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