

NOVEMBER 2019

HOUSING FRAMEWORK LAW

On last October 1st, Law no. 83/2019 of September 3rd (“Law”)¹ entered into force, setting forth the framework of the right to housing and the responsibilities and core tasks of the State in the effective assurance of that right to every citizen, pursuant to the terms of the Portuguese Constitution. The content of this Law is merely programmatic, therefore only the core principles and effective measures introduced are explained herein.

1. GENERAL SCOPE

The promotion and defence of housing shall be pursued through public policies and through private, cooperative and social initiative.

2. HOUSING SOCIAL ROLE AND ITS EFFECTIVE USE

The Law sets forth that the housing social role corresponds to the *effective use for housing purposes of real estate property or building units designed for housing*. In accordance, the State – in charge of assuring the right to housing – must promote the effective use of vacant public properties and, on the other hand, promote the effective use of vacant private properties.

The Law considers as vacant the houses that are, continuously and without justification, during a period to be determined by law, not being effectively used for housing purposes for a reason attributable to the owners². However, (i) second homes, (ii) emigrants’ homes and (iii) homes of people displaced for professional or health reasons aren’t considered as vacant.

¹ Except in what the provisions with budget impact are concerned, whose entry into force is subject to publication of the first budget corresponding to that impact.

² That may be subject to payment of penalties.

3. HOUSING PUBLIC POLICIES

The Law sets forth the existence of a public entity of the housing national policy (which carries out the roles and tasks of the State in what housing is concerned) and the creation of the National Housing Program (“NHP”). The formation of the National Housing Council is also determined, to whom is granted an advisory role in matter of the national housing policy and, namely, issue opinion on the NHP proposal.

The municipalities are also called upon to participate in the housing support policy through the development of a Municipal Housing Letter (“MHL”) which shall correspond to the municipal land-use planning instrument in matter of housing to articulate within the Municipal Director Plan.

4. HOUSING POLICY INSTRUMENTS

The housing policy shall be based on the following general measures:

- Promotion and management of public housing measures
- Tax and tax policy measures
- Financial Support and subsidisation measures
- Legal and regulatory measures

5. RIGHT OF PREFERENCE

In the event of purchase and sale of real estate property between individuals, the right of preference is granted to the State, autonomous regions and municipalities. The right of preference of public entities doesn't affect the habitational tenants' pre-emptive right in the purchase and sale or transfer in lieu of payment of the rented property in which they reside, the law having to set forth respective grading.

6. HOUSING CREDIT

Housing credit is an instrument of access to housing and includes, namely, loan agreements destined to the acquisition, construction or performance of ordinary or extraordinary conservation works and of improvement of permanent residence.

The Law sets forth that, if established in the agreement, the transfer in lieu of payment of the debt to the credit institution is permitted, allowing the extinction of

the debtor's obligation through the delivery of the real estate property and regardless of the value attributed to the property for that purpose.

A protective legal regime may be applied to debtors of housing credit that in very difficult economic situation, including the possibility of debt restructuring, transfer in lieu of payment or measures that substitute foreclosure.

PARES | Advogados is available to provide more detailed information on the Housing Framework Law that will suit the specific needs of each client, being able to offer all necessary support in matters of Real Estate and Lease Law.

Margarida Marques Pereira

mmp@paresadvogados.com

Rui Rompante

rr@paresadvogados.com

This Information Note is intended for clients and lawyers, shall not constitute publicity and its copying, circulation or any other form of reproduction are prohibited without the express authorization by its authors. The information provided is of general scope and does not preclude seeking legal advice prior to any decision regarding the matter at hand. For further clarifications please contact **Margarida Marques Pereira** (mmp@paresadvogados.com) or **Rui Rompante** (rr@paresadvogados.com).