



Ukraine Legal Market News

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The World Financial Crisis Impact on Real Estate Market

Verkhovna Rada of Ukraine has adopted the Law of Ukraine “On Reducing of World Financial Crisis Negative Impact Over the Development and Residential Construction” (effective since January 14, 2009).

The above Law is focused on support to such important sector of Ukrainian economy as the construction industry. The following state support mechanisms are established in order to counteract influence of the financial crisis:

- purchase of the apartments in the newly constructed residential buildings for so-called “social apartment”;
- purchase of mortgage loans treated as doubtful;
- support of individuals in acquisition (construction) of the apartments through partial reimbursement of their value and reimbursement of the interest rates under mortgage loans.

The state financing of the above support mechanisms shall be applied in the year 2009 with respect to the residential buildings which are finished over 70% only.

The Law amended the rules for mortgage of unfinished construction objects, particularly, it sets forth the definition of the “unfinished construction object” and provides for that such object may be mortgaged through (i) the mortgage of the title to the land plot, (ii) the mortgage of unfinished construction object and (iii) the property rights to it. We consider that the above amendments of mortgage laws and regulations will positively affect the real estate market as they make possible the mortgage of the unfinished construction object located at the communal and/or state land leased/used by the mortgagor.

Amendments to the Procedure of Registration of Legal Entities and Individuals - Private Entrepreneurs

Verkhovna Rada of Ukraine has adopted the Law of Ukraine “On Amendments to the Law of Ukraine “On State Registration of Legal Entities and Individuals - Private Entrepreneurs” dated December 25, 2008 (the “Law”). The Law was officially published in “Uryadovyi Kur'er” No. 2, dated January 10, 2009.

Pursuant to the Law certain changes to (i) registration procedure of legal entities and individuals - private entrepreneurs, (ii) registration of the company's participants and (iii) registration of open joint stock companies (the “OJSC”) have been introduced.

In particular, in accordance with the Law (i) the applicant's signature on a registration form shall be certified by a notary if it is delivered to the state registrar by mail; (ii) the company's foundation agreement shall be notarized; (iii) for registration of changes incurred as a result of transaction with participation interest in authorized capital, the state registrar shall be provided with certified by a notary copies of the documents evidencing such transaction or duly notarized original of such contract; (iv) it is not required to submit to the state registrar a report on shares subscription, certified by Securities and Stock Market State Commission, for state registration of a new OJSC; (v) the state registrar should be provided with a resolution on cancellation of registration of shares issue, certified by the Securities and Stock Market State Commission, for state registration of OJSC's termination.

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The Law will become effective on May 10, 2009.

Amendments to the Criminal Procedure Code of Ukraine

The Law of Ukraine No. 839-VI "On Amendments to Article 384 of the Criminal Procedure Code of Ukraine", dated January 13, 2009, is effective since January 28, 2009.

Pursuant to this law an option for appeal of trial and appellate court decisions on appellation of resolution on refusal of a criminal proceedings initiation to the Supreme Court was introduced. It is interpreted strictly thereby that:

- the persons who have already appealed decisions to the trial or appellate court only are entitled to apply to the Supreme Court;
- appellation ambit should be within the reasons and grounds of refusal of a criminal proceedings initiation

Amendments the Law on Protection against Unfair Competition – Court Practice

Due to adoption of amendments to the Law "On Protection Against Unfair Competition" (the "Law") the Highest Commercial Court of Ukraine issued the respective explanations on application of the Law by commercial courts (Information Letter No 01-08/11, dated January 15, 2009).

Attention is drawn *inter alia* to the fact that according to the Article 25 of the Law in case of committing of the following violations: (i) illegal use of signs (labels) and (ii) copying of item's appearance; the Antimonopoly Committee of Ukraine and persons, whose rights have been violated, are entitled to apply for a court with a claim for attachment of illegally marked goods and goods duplicates from a producer and a seller as well.

Jurisdiction of the cases related to such disputes is determined by the procedure legislation of Ukraine. Moreover suits brought by the Antimonopoly Committee and its bodies shall be settled by the commercial courts.

The mentioned amendments to the Law are effective since January 13, 2009.

Mandatory State Pension Fund Charge on Certain Commercial Activities

According to the Law "On the State Budget of Ukraine" dated December 26, 2008 (effective since January 1, 2009), the rate of charge payable to the State Pension Fund on the purchase of non-cash foreign currency for hryvnia has been changed.

Thereafter the banks accrue, withhold and simultaneously to filing of application on purchase of foreign currency that is made for their own transactions and on behalf of their clients as well, shall pay a charge to the State Pension Fund in

amount of 0.2 percent of the transaction on purchase of foreign currency mentioned in such application.

The KPD CONSULTING Law Firm's News

On January 28, 2009 Kyrylo Kazak, an attorney at law and partner of KPD CONSULTING Law Firm, on invitation of the National Center for the Training of Bank Personnel of Ukraine acted as a visiting professor of a seminar "Personnel Records. Review of the Relevant Labor Law Issues". The training covered the concept and types of employment agreement, scope of application for fixed-term employment agreement and contract etc. Furthermore, Kyrylo Kazak's report covered procedure and conditions of paid and unpaid leave granting, liability for the labor law violation as well as the outstanding issues and the most typical employer's mistakes in hire and dismissal procedures.

On January 29, 2009, Michael Kurochka, a partner of "MPO "Most" (a member of "KPD CONSULTING Law Firm" group), on invitation of "Ukrayins'ky novyny" media agency took part as an expert in the round-table meeting about "Outlook on Improvement Mechanism of Mortgage Residential Premises Realization by the Banks". The specific feature of the topic was to discuss outstanding issues of bad mortgage bank loans in a crisis period, where Michael Kurochka has a unique practical experience.

** the National Center for the Training of Bank Personnel of Ukraine was established on the November 17, 1993. The National Bank of Ukraine and the Association of Ukrainian Banks are the founders and coordinators of the Centre. The Center is considered as the most competent institution for improving skills of bank personnel in Ukraine and also is a member of European Bank Training Network and Association of Bank Institutions of New Independent States.*