

New Catalonian Housing decree

We analyze the recent law (17/2019) approved in Catalonia, which has regulated important measures that may create an impact in the real estate market.

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The Generalitat of Catalonia has recently approved the Law 19/2019, of 23 December, which has regulated important measures that may create an impact in the real estate market of Catalonia. This decree is still pending to be validated by the Catalonian parliament.

We have summarized some of the most important ones in this letter:

Permanent housing vacancies

The possibility of the Catalonian government to impose coercive fines is now expressly regulated in the event of “**permanent unoccupancy**” of the real estate portfolios of private legal entities.

The definitions of unoccupied houses have been adjusted. Buildings that remain permanently unfinished in the final phase of its construction works are included in this definition.

The cases in which dwellings must be registered in the Register of Unoccupied Dwellings are extended, since it is foreseen that unoccupied dwellings not coming from foreclosures or debt settlement agreements which are owned by private legal entities will also be included. This implies that these dwellings can also be expropriated in accordance with Article 15 of Law 4/2016 of 23 December.

The faculty of expropriation of the Catalonian government is extended to include not only the temporary use of these dwellings, but also its ownership prior payment of the relevant amounts by the authorities (as regulated in Law 4/2016, 23th December).

Compulsory social renting

Homeowners are required to make a proposal of a social lease agreement to their occupants (provided they are under the social situation foreseen in the decree) prior to bringing against them (i) any court action for foreclosure or (ii) eviction for non-payment of rent, termination of the contract due to expiration, or occupation of the property without title.

Specifically, such proposal must be made:

- Due to the expiry of the term of the legal title that enables the occupation of the property. The proposal of social lease is enforceable for a period of three years from the entry into force of the decree analyzed in this letter.
- For lack of a legal title that enables the occupation, when the owner has the condition of great real estate owner (own more than 15 dwellings, or be a venture capital and/or asset securitization fund), provided that the following circumstances concur:
 1. That the dwelling is in the situation of abnormal use referred to in article 41.1.a of Law 18/2007, of 28 December, on housing rights.
 2. That the occupants prove that occupation without a title began at least six months before the entry into force of the decree analyzed in this letter.
 3. That the occupants have not rejected any social rehousing option in the last two years offered by any public or social rental administration.



The legal pre-emption right is established in favor of the Catalan government with respect to onerous transfers.

4. That the municipal services report favorably on the compliance by the occupants with the parameters of risk of residential exclusion and on the establishment and coexistence in the neighborhood.

In order for the proposal to be considered as a social renting proposal, it must comply with the following requirements:

- a) It must set rents that guarantee that the effort for the payment of such rent does not exceed 10% of the weighted income of the family unit, if it is below 0.89 of the income adequacy indicator (IRSC), or 12% of the weighted income of the family unit, if it is below 0.95 of the IRSC, or 18% of the weighted income of the family unit, if it is equal or higher than 0.95 of the IRSC.
- b) It must preferably offer the dwelling affected by the procedure or, alternatively, dwellings located within the same municipal district, unless a report is available from the municipal social services certifying that the transfer to another municipal district will not adversely affect the risk of residential exclusion of the family unit.
- c) The minimum duration of social lease agreements must be at least the same as that provided for in the urban leases act and, in any case, cannot be less than five years, if the owner of the dwelling is an individual, and seven years if it is a legal entity.

Social housing

The duration of public housing regimes is expressly regulated, establishing the indefinite duration of the urban planning qualification that qualify land for social housing use.

With respect to the mechanism to set out of the sales prices and maximum income of the dwellings with social protection regime, a disaggregated system of the level of income of the possible users is configured and, therefore, no modalities based on these is envisaged.

New measures in free housing rentals

The decree regulates the **Reference Index of housing rental prices**, which will be prepared and published by the competent authorities.

The data from the referred Index has to be expressly included and highlighted in advertising and in offers of free rental housing, as well as expressly reflected in the lease contracts that are signed between lessors and lessees, for the purpose of the tenant having clear knowledge of which the index is in the relevant area when negotiating the lease.

The government will to take into account this Index in the development of its public policies, and the lessors cannot receive public subsidies to promoting renting when the rent is higher than the mentioned Index

Pre-emption rights of the Catalan authorities

With regard to dwellings acquired in foreclosure proceeding or by means of compensation or settlement of debt with mortgage guarantee, the pre-emption rights regulated by Decree Law 1/2015 of 24 March is extended to all municipalities and refer to both the first and subsequent transfers that may take place during the validity of such Decree Law 1/2015, which is extended, as regards the exercise of this measure, up to 12 years from its entry into force.

The legal pre-emption right is established in favor of the Catalan government with respect to onerous transfers that affect land that urban planning reserves for social housing use and, in accordance with the possibilities offered by the state legislation on urban leases, those that affect rented dwellings that is transferred together with the rest of the residential units or premises that comprise the same property.

This legal right is also recognized by Barcelona City Council with regard to the property located within its boundaries.



The transitional regime allows the construction of publicly-owned endowment housing on land classified as “community facilities and infrastructures”.

The concrete exercise of the aforementioned pre-emptive rights is regulated in detail.

Endowment housing (alojamiento dotacional)

The urban system of the so called “endowment housing (vivienda dotacional)” is integrated into the urban system of community infrastructures and facilities.

The transitional regime allows the construction of publicly-owned endowment housing on land classified as “community facilities and infrastructures”, without the need to previously adapt the urban planning to the provisions of the decree law analyzed herein, when the planning mentioned does not specify the use, or as an extension of existing facilities in accordance with the conditions of integration in the environment to be established.

It also regulates the possibility that private individuals may promote a facility for endowment housing on land classified as a system of community facilities that the general urban planning may set forth, provided that the public or social interest of the endowment housing is accredited through consultation with a competent authorities.

Other new measures in urban planning

- It has been determined that the compulsory transfer of land to be made within the framework of urban developments with a reserve of land destined for social housing, will trigger the authority’s obligation to materialize such reserve and build it on time.
- On the other hand, it is envisaged the possibility that the qualification of residential land destined for social housing, to be made by the master plan of the relevant city, may affect part of multi-family buildings (and not only entire buildings), referring it to the case of new buildings, expansion and general reform works, provided that they are intended to accommodate a majority of new residents.

- In the case of modifications to urban planning on consolidated urban land that do not involve an increase of building rights, the legal obligation to devote a part of the land to social housing cannot affect the plots resulting from a procedure of distribution of profits and burdens if the time set out for building the resulting plots have not yet expired.
- Urban planning is enabled to reserve land to carry out buildings intended for the use of dwellings by floors, without the possibility of setting them up under a condominium regime, with the purpose of transferring their complete use to third parties under a rent or similar formula. This is aimed to create more rent real estate product.

New Housing plans

A new Sectoral Territorial Plan for Housing will be approved within one year of the entry into force of the decree law summarized herein.

This Plan must specify, for municipalities included in areas of strong and accredited residential demand with special difficulties of access to housing, the minimum land reserve standards for social housing, higher than those established by the Urban Planning Law, which, at a minimum, must be

- of 50 percent of the buildability that qualifies for new residential use on specified developable land, and
- of the 40 percent of the buildability aforementioned on unconsolidated urban land,

unless, in the latter case, it is necessary to maintain it at 30 percent to ensure the economic viability of the urban planning action. At least half of these reserves must be allocated to the rental scheme.

Finally, pending confirmation of its validation, and without prejudice to the fact that this rule will most likely be the subject of some “legal dispute”, PwC is assisting clients in analyzing its possible effects on their real estate business.