

LAW FOR REGULARIZATION AND CONTROL OF HOUSING LEASES

The Law for Regularization and Control of Lease of Housing Units (the “Law”) was published in Official Gazette N° 6.053 (Extraordinary) dated November 12, 2011 and became effective on said date. The Law establishes the special juridical regime of lease of urban and suburban real property used for housing. Following are the most significant aspects of the Law:

Fundamental Principles:

- All matters related to lease of real property used for housing are declared to be of public, general, social, and collective interest.
- The National Superintendence of Lease of Housing Units (*Superintendencia Nacional de Arrendamiento de Vivienda* - “SNAV”) is created as an entity for control and review. Said entity will be in charge of the National Registry of Lease of Housing Units.

Lease Relationship:

- Lease agreements must be public and to that end, Notary Public’s Offices and Registries with notarial functions must exempt them from taxes. In a period of three (3) months after the entry into force of the Law, the SNAV will proceed to prepare a Registry of Lease Agreements.
- Lease agreements will have a minimum duration of one (1) year and they may be renewed at lessee’s discretion.
- The resolution of the SNAV fixing the relevant lease rental must be attached to the lease agreements, under penalty of nullity.
- Lease agreements must be entered into in national legal currency. Lessors who contravene this provision may be imposed a fine of 400 Tax Units (400 TU). Lease agreements in foreign currency entered into prior to the entry into force of the Law must be adapted to the same in a period of time not exceeding thirty (30) calendar days.
- Lease rentals are to be paid on a monthly basis and in no case may advanced payment of the same be required.
- The Value of the Real Property (*Valor del Inmueble* “VI”) is fixed by the SNAV, taking into account elements such as replacement value, dimensions, depreciation value, and geographical area, among others.
- The lease rentals of the real property regulated by the Law will be fixed by the SNAV, upon its own initiative or upon the request from an interested party, by means of a mathematical formula established in article 78 of the Law that takes into account the VI and the annual profitability percentage on the VI determinable according to the type of lessor. All amounts charged by the lessor in excess of the maximum rental fixed by the SNAV are subject to refund to the lessee. The statute of limitations of the action to demand such refund is ten (10) years as from the date when the last fixing of the maximum lease rental of the real property became final.
- The lease rentals of the real property regulated by the Law will be reviewed by the SNAV, at the request from any of the interested parties (i) upon the elapsing of one (1) year after each fixing, (ii)

- when the use or destination for which the real property was leased is fully or partially changed, or (iii) when the lessor makes improvements in the real property with a cost exceeding 20% of the VI.
- The lessee has the right to continue to occupy the real property in the same conditions, upon the expiration of the term of the lease agreement, always provided that he/she is current with respect to the payment of the lease rentals. The lessee who does not wish to enjoy this right must state so through an authentic document at least thirty (30) days in advance of the expiration of the agreement.
 - The reasons for eviction from a real property are restrictively established in article 91.
 - The lessee has the right to purchase the real property in preference to any third party. For such purpose, the owner must inform the lessee of his/her will to sell the real property through an authentic document indicating the price (not exceeding the one determined as VI), sales terms and conditions, and bargaining methods, among others. As to the sales terms and conditions, no full payment may be demanded, nor may a period of time shorter than one (1) year be established for the obtainment of the mortgage credit; no advanced payment may be required as a guarantee of the performance of the obligation, nor may any clauses that provide for the unilateral termination by the offering owner be included. Also, the owner must give a discount of the sales price according to certain percentages fixed on the basis of the duration of the lease relationship.

Constructing Companies:

- The companies that build housing developments of more than ten (10) units must use a percentage of such housing units for lease. The Ministry of the Popular Power with competence over Housing and Habitat will have the power to fix said percentage and to designate the real property to be leased in the housing developments.
- Upon the elapsing of ten (10) years after the construction of said housing developments, the owners must offer the real property for sale to the lessees occupying them and the sales price will be determined according to the stipulations of the SNAV.

Transitory and Repealing Provisions:

- The leases of real property intended for commercial activities, offices, industrial activities, and any use other than lease of housing units continue to be governed by the Law on Real Property Lease (the “LRPL”), published in the Official Gazette of December 7, 1999.
- The provisions of the LRPL intended for, related to, or connected with the lease of real property for housing are repealed.

