

Note

Note on the new Royal Decree-Law on Urgent Measures to deal with the social emergency in housing matters

5th March 2019

On 1st March 2019, the Council of Ministers approved the new Royal Decree-Law on Urgent Measures to address the social emergency in housing (hereinafter the "Decree-Law")

The approval of this new body of legislation, which entered into force on 6th March 2019 in the Official State Gazette ("BOE"), entails a series of modifications to the current regime of Law 29/1994, of 24 November, on Urban Leases ("LAU"), which are summarised below:

Duration of housing leases

- > The **mandatory extension is extended from 3 to 5 years**, if the lessor is a natural person, or to **7 years**, if it is a **legal entity**.
- > The **tacit extension is extended from 1 to 3 years** if neither of the parties declares its intention to terminate the contract after the first 5 or 7 years.
- > **The period of notice is also extended from 30 days to 2 months** in order not to extend the contract for the **lessee** and to **4 months** for the **lessor**.

Rent and guarantees

- > **Indexation** of the rent **increases** during the contract to the Competitiveness Guarantee Index (CIG) in the absence of express agreement regarding the methodology; the increase produced because of the annual update of the rent may not exceed the result of applying the percentage variation experienced by the Consumer Price Index ("CPI") at the date of each update.
- > However, the agreement between the parties for improvements to be made during the term of the contract is favoured, allowing in this case the increase of the rent during the rest of the contract.
- > The **additional guarantees** are limited to **2 months**.

Subrogation

- > The possibility of **subrogation** is provided in the event of the **death of the tenant**, in favour of **minors, disabled persons or persons over 65 years of age**.

First refusal and pre-emptive rights



- > In the event of the **joint sale** of a property with rented housing, a **preferential right** of acquisition is established in favour of the **Public Administrations**.

Third Party Advertising

- > Contracts **not registered in the Land Registry** will again be **effective against third parties** during the first five years of the contract, or seven years if the previous lessor was a legal person (binding third party's acquirers who intend to buy a rented property).

Formalisation expenses

- > It is established that the costs of **real estate management and formalization** will correspond to the **lessor**, when the latter is a **legal entity**.

Tax Issues

- > The new rules provide for the possibility that municipalities can implement a tax on the IBI of empty housing or subsidize in the IBI rental subsidized housing.
- > The **Wealth Transfer Tax** is also **eliminated** for rentals of a **habitual residence**.

Homes for touristic use:

- > The exclusion of article 5 e) of the LAU is extended, regulating all housing for tourist use by the tourism sector regulations **of each autonomous community**.
- > A 3/5 majority of homeowners' associations are allowed:
 - To limit tourist housing**, or allocate higher common expenses, with a maximum increase of **20%**.
 - To limit or condition the exercise of the tourist rental activity** or set certain conditions for its exercise, in order to provide the neighbours with tools to facilitate coexistence and decide on the activities that take place in their community.

Commonhold Property

- > Buildings subject to the commonhold property regime are obliged to carry out works and accessibility actions, regardless of the amount thereof, if there is public aid of at least 75% of the cost. Additionally, it establishes the need to raise and allocate the reserve fund of the community of owners to cover investments in accessibility.

State housing rental price index benchmark

- > For the implementation of measures favouring information, transparency, housing or fiscal policies, the creation of a **state index of reference for the price of rented housing** is envisaged within 8 months of the Decree-Law entry into force.

Once the main amendments to the **Decree-Law** have been presented, we recall that it must be **validated** within 30 working days by the Permanent Deputation of the Congress of Deputies, due to the dissolution of the Cortes, as a result of the call for elections to be held on April 28.

For your information and knowledge, you can consult the Decree-Law in the following [link](#)

For more information, please contact:

[José Luis Aguilar](#)

jose Luis.aguilar@AndersenTaxLegal.es

[Arnau Galera](#)

arnau.galera@AndersenTaxLegal.es