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LAW

No. 10 186, dated 05.11.2009

ON THE REGULATION OF STATE OWNERSHIP TO THE CONSTRUCTION PLOT IN TOURISM PRIORITY AREAS

(Amended by Law No. 10395, dated 10.03.2011

Amended by Law No. 67/2014, dated 25.07.2014)

Pursuant to articles 78 and 83, paragraph 1 of the Constitution, upon the proposal of the Council of Ministers,

THE PARLIAMENT OF THE REPUBLIC OF ALBANIA

DECIDED AS FOLLOWS:

CHAPTER I

GENERAL PROVISIONS

Article 1

Object

This law governs the ownership relationships to the construction plot and facilities constructed in tourism priority stimulated areas that are granted to realize stimulated activities and that are created before the entry into force of this law.

Article 2

Definitions

(Amended: the letters "c", "d" and "ë"

Abrogated: the letter "f"

Inserted: the letters "gj", "h", "i" and "j" in paragraph 1, with the Law No. 67/2014, dated 25.7.2014)

In this Law, the terms herein shall have the following meaning:

- a) "Stimulated Zone" is any part of the territory of the Republic of Albania, where the immovable properties are located, granted to conduct the stimulated activities.
- b) "Stimulated activity" is any initiative to ensure cash benefits through the tourism industry and exercised in accordance with the provisions of the Law No. 7665, dated 21.01.1993 "On the Development of Tourism-Priority Areas", as abrogated.

c) "Stimulated Person" is a natural or legal person, awarded the status of incentivized person, in accordance with Law No. 7665, dated 21.1.1993, "On the Development of Tourism-Priority Areas", as abrogated.

ç) "Lease and Development Agreement" is the agreement entered into between the stimulated person and the lessor, defining the specific conditions for the realization of the stimulated activity.

d) "Built facility" is the facility or the entirety of facilities or apartments built within the zone boundaries for which the person was awarded the status of stimulated person.

f) "Interested Entity" is a natural or legal person using the built facility and has entered into a direct or indirect legal transaction with the stimulated person for the assignment of real rights to the facility constructed within the stimulated area, before the date of entry into force of this law.

(e) "Lessor" is the authority entering into a lease and development agreements with the stimulated person.

ë) "Construction Plot" is the entire plot surface area within the stimulated area, according to the boundaries of the approved construction site permit.

f) Abrogated.

g) "Responsible Minister" is the Minister, under which ALUIZC is subordinated to.

(gj) "Free construction plot" is the plot surface area, within the simulated area, as defined by the survey plan within the boundaries of the approved construction site permit, such as squares, functional plots, swimming pools, green areas, roads or other plot of similar destination and function."

h) "Survey Plan" is the plan prepared by ALUIZC, after the in-situ updates, indicating the factual situation of the stimulated zone, according to the boundaries of the approved construction site permit.

i) "Built Facility" is a facility whose frame structure and covering are completed.

j) "Non-tourist activity in tourism-priority area" is the activity performed in accordance with letter "b", article 4 of the Law No. 7665, dated 21.1.1993, "On the development of tourism-priority areas", as abrogated.

2. The institution responsible for conducting the procedures of the transfer of ownership title on the built facilities and the construction plot, within the stimulated area, to the interested persons is the Agency for the Legalization, Urbanization and Integration of Informal Zones/Constructions", hereinafter ALUIZC, established by the law No. 9482, dated 03.04.2006 "On the legalization, urbanization and integration of illicit constructions" as amended.

Article 3

Scope of application

(The existing paragraph becomes paragraph 1 and, paragraph 2 is inserted with the Law no. 10395, dated 10.3.2011)

(Paragraph 1 is amended and paragraph 3 is inserted with Law No. 67/2014, dated 25.7.2014)

1. This law is applicable to the transfer of the title rights to the interested entities or stimulated persons to the built facilities and construction plot within the stimulated zone, as well as to non-tourist activities in the tourism-priority area.
2. The stimulated persons, who have satisfied all their liabilities arising from the lease and development agreement, in the event they are not interested in changing the ownership to the construction plot, are not subject to the procedures provided by this Law.
3. The procedures of this law shall apply also to persons exercising "non-tourist activities in the tourism-priority area.

CHAPTER II OWNERSHIP TRANSFER PROCEDURE

Article 4

Documents required to be submitted by the interested entity

(Letter "b" of paragraph 1 amended with the Law No 67/2014, dated 25.7.2014)

1. The interested entity, who is using the built facility shall file with the ALUIZC, within 60 days after the public notice, the following documents:
 - a) an application for the transfer of the ownership title to the construction plot, filled in in compliance with the template form approved by the responsible minister;
 - b) the documents attesting the legal transaction between the stimulated person and the entity interested in the transfer of the ownership title to the built facility;
 - c) the layout plan and surface in m² of the built facility;
 - ç) the ownership documents of the built unit, if any;
 - d) a copy of the ID or extract of the commercial registry.
2. If the built facility or facilities are used by two or more interested parties, the application is made for the transfer of the joint ownership of the entire construction plot.

Article 5

Documents required to be submitted by the stimulated person

(The letter "e" of paragraph 1 is added with the Law No. 10395, dated 10.3.2011)

(Law No. 67/2014, dated 25.7.2014 has amended in paragraph 1, the letters "b", "c", "ç" and "e" and inserted the letter "f", while has added a paragraph 2, after 1.)

1. The stimulated person, who is using the built facility within the stimulated area shall file with the ALUIZC, within 60 days after the public notice, the following documents:
 - a) an application for the transfer of the ownership title to the construction plot, in line with the template form approved by the responsible minister;

- b) the lease or development agreement entered into between the stimulated person and the lessor, if there is such an agreement;
 - c) the construction permit and/or the construction site permit;
 - ç) the approved architectural design;
 - d) the ownership documents of the built facility, if any;
 - dh) a copy of the ID or extract of the commercial registry.
 - e) a verification letter from the National Tourism Agency about the lease agreement liability, calculated up to the moment of the agreements are terminated;
 - f) the decision of the competent bodies awarding the status of stimulated person.
2. The paragraph 1 of this Article is applicable also to those entities that have exercised a non-tourist activity in a stimulated area.
2. If the built facility or facilities are used by two or more stimulated persons, the application is made for the transfer of the joint ownership title to the entire construction plot.

Article 6

Public Notice

1. To ensure the documents specified in Articles 4 and 5 of this Law, ALUIZC shall, upon the entry into force of this law, make a public notice to inform the interested entities and the stimulated persons.
2. More detailed rules on the deadline, content and manner of public notice are established by a Council of Ministers Decision.

Article 7

Verification of data

1. Upon filing the documents specified in Articles 4 and 5 of this Law, ALUIZC makes the data entry, in line with the form defined in the Instruction of the responsible minister.
2. ALUIZC shall coordinate its work with the Immovable Property Registrati on Office (IPRO) to check the legal status and the in-situ conditions of the built facilities, and with the Property Restitution and Compensation Agency to identify whether there is any application by entities claiming the ownership right to the stimulated area.
3. Upon conclusion of the verification made together with the institutions referred in paragraph 2 herein, ALUIZC shall draft a report explaining the verification process conducted and a survey plan reflecting the urban planning data of the stimulated area.
4. The detailed rules for the co-ordination of work, according to paragraph 2 of this article, are established by a Council of Ministers Decision.

Article 7/1

Land Ownership Transfer Procedure

(This Article is inserted by the Law No. 67/2014, dated 25.7.2014)

1. In the event the stimulated person has entered into a lease or development agreement about a state-owned construction plot, ALUIZC shall, before the Property Restitution and Compensation Agency make the physical restitution and compensation, transfer the ownership title to the construction plot in the name of the interested entity or the stimulated person.
2. The persons affected by the application of paragraph 1 of this Article shall be compensated following the procedures provided by the legislation into force about the legalization, urbanization and integration of illicit constructions.

Article 8

Cancellation of the registration of a legal transaction

(Paragraph 2 abrogated with aw No. 67/2014, dated 25.7.2014)

1. The explanatory report, drafted in accordance with Article 7 of this Law, is promptly communicated to the Central Immovable Property Registration Office to check whether the built facility is registered or not. In this case, after receiving the report, the registrar suspends the registration and no action can be taken on the property, until this process is completed, under this law.
2. Abrogated.

Article 9

Ownership and joint ownership of the entirety construction plot

(Paragraph 1 is amended by the Law No. 67/2014, dated 25.7.2014)

1. The interested entity or the stimulated person have the right of option to acquire the construction plot where the built facility is attached to, located within the boundary of the construction parcel and identified in the survey plan, in accordance with the procedures provided by this chapter.
2. If the built facility is being used by two or more interested entities or stimulated persons, they have the right of option to acquire the construction plot as tenancy-in-common, in the appropriate proportions with the built facility surface, which they shall prove to have been using it on the basis of documentary evidence, presented in accordance with Articles 4 and 5 of this Law.
3. The plot acquired in co-ownership by two or more persons, by the operation of this law, shall not be divisible.
4. Any legal transaction carried out with the intent to violate the above prohibition, shall be absolutely null and void.

Article 9/1

Ownership and co-ownership to the vacant land

(This Article is inserted by the Law No. 67/2014, dated 25.7.2014)

- 1.

2. Upon conclusion of the process defined by Article 9, the land plot that remains vacant within the boundaries of the stimulated area, as identified by the survey plan, is assigned in compulsory and inalienable co-ownership of the interested entities and the stimulated person.

The deadlines and procedures for the compulsory transfer of the co-ownership over vacant land are established by a decision Council of Ministers Decision.

The procedure for the administration and governance of the co-ownership to such plot is carried out in accordance with the law on the administration of tenancy-in-common to the residential buildings and the secondary laws issued pursuant thereto.

3. In case the interested entities and the stimulated person do not ask for the compulsory transfer of co-ownership of the vacant land, under the definitions of paragraph 1 of this article, this land shall remain state-owned.
4. The stimulated person that has completed the construction of the facilities by the entry into force of this law and has not changed their destination as stimulated activities, by way of exemption from the paragraph 1 and 2 herein, has the right of option to acquire the entire vacant land inside the stimulated area, based on the survey plan.
5. In any case, the vacant plot, located inside the boundaries of the stimulated area, notwithstanding its title is transferred or not, under the provisions of this article, is considered an “area of national importance in urban planning”, in accordance with the law on territorial planning and the development.

Article 10

Contract for the sale of the plot

(Paragraph 1 is amended by the Law No. 67/2014, dated 25.7.2014)

1. The price of plot, located inside the stimulated area, is fixed on the basis of the land value map, approved by a Council of Ministers Decision.
2. In the cases of the transfer of the compulsory tenancy-in common, ALUIZC shall determine the corresponding share of the price after calculating the proportion of the plot to the surface of the built facility that each of the interested parties or stimulated persons is entitled to.
3. ALUIZC shall enter into the sale contract for the transfer of title to the plot, according to the template form, and notifies in writing the interested entity or the stimulated person that meet the conditions foreseen in this law and the amount of the price. The template form of the sale contract is approved by an order of the responsible Minister, within 60 days from the entry into force of this law.
4. The sale contract is signed upon full payment or of the corresponding amount of the price of the plot where the built facility is attached to. More detailed rules on the method and calculation of deadlines for the payment of the plot price are established by a Council of Ministers Decision.
5. The contract concluded under this law is registered with the Immovable Property Registration Office, after the Chief Registrar has taken any decision, if

applicable, under Article 8 of this Law. 6. The sale contract is registered, notwithstanding the contracts of the other persons having the right of co-ownership to the plot are signed or not. The ownership rights to the plot are established on the basis of this law and the contract.

7. The transfer of the ownership or co-ownership right to the plot, according to this procedure, is not taxable under the applicable legislation on income tax.

Article 11

Procedure of transfer of built facility ownership

(Letter "a" in paragraph 3 is abrogated by the Law No 67/2014, dated 25.7.2014)

1. After the acquisition of the title to the land plot, the interested entity has the right to register with the Immovable Property Registration Office the contract of acquisition of the title to the built facility that he has entered into with the stimulated person.

2. The stimulated person is also entitled to such right for the built facility that he/she is using, under a lease and development agreement signed before to the entry into force of this law, in the event he/she has carried out any legal transaction with interested entities for the transfer of the real rights. In this case, the transfer of the ownership right is not taxable under the applicable legislation on income tax.

3. In the case of build facilities that are unregistered with the Immovable Property Registration Office, ALUIZC shall finish their initial registration process. For this purpose, ALUIZC shall:

a) Abrogated.

b) implement the procedures of the legislation into force for the legalization of informal constructions.

Article 12

Settlement of disputes over the right to property

1. Where there are two or more persons claiming over the same property, ALUIZC shall enter into the contract for the transfer of title to the land with the person who has filed the earliest contract for the performance of the legal transaction related to the transfer of real rights, according to the form required by law.

2. The disputes over the real rights are, in this case, settled by the competent court.

Article 13

Fee for services provided by ALUIZC

The fees for the services provided by ALUIZC are established by a joint-instruction of the Minister of Finance and the responsible Minister.

CHAPTER III

LAND PLOT PRICE CALCULATION PROCEDURE

Article 14

Payment method of the plot price

(Paragraph 6 removed by the Law No. 10395, dated 10.3.2011)

(Paragraph 1 and 3 amended, sub-paragraph 2 in paragraph 3 is abrogated by the Law No. 67/2014, dated 25.7.2014)

1. The price of the plot is discounted of 10 per cent, if paid within one month from the written notice, under paragraph of Article 10 of this law.
2. Abrogated.
3. The proceeds from the transfer of the ownership right to the plot are divided as follows:
 - a) 80 per cent of the amount goes to the State Budget in the account of the financial compensation fund provided by the Law No. 9235, dated 29 July 2004, "On the Restitution and Compensation of the Property", as amended, to benefit of the Agency for the Restitution and Compensation of Property;
 - b) 20 per cent of the amount goes to the account of ALUIIZC.The revenues generated from the fees and taxes are managed under articles 13 and 15 of this law.
4. After such transfer, the Council of Ministers, in its annual decision on the rules and criteria for handling the financial compensation decisions, shall be based also on the principle of making the financial compensation of the first expropriated persons affected by the application of this law.
5. The price of plot sold to the interested entity or the stimulated person shall be in proportion to the surface of the plot, in function of the built facility that he/she is using.
6. Removed.

Article 15

Collection of tax arrears

1. The General Tax Directorate and the local government bodies shall calculate and collect all the tax arrears, if any, of the stimulated person, according to the legislation into force.
2. For all the built facilities sold before the date of entry into force of this law, under the contract signed with the purchaser, the stimulated person is liable to pay a tax rate for unpaid taxes, according to the legislation into force, on the date the sale contract has been executed.
3. The rules on the deadlines and method the tax arrears are collected are determined by an instruction of the Minister of Finance.

Article 15/1

(This Article is added by the Law No. 10395, dated 10.3.2011)

(Last sentence is amended by the Law No 67/2014, dated 25.7.2014)

1. For the stimulated persons or entities, having a lease and development agreement, who have not settled the liabilities arising from the lease agreement, the amount of the tax arrears is added to the price of the transfer of ownership to the plot. The arrears are calculated by the National Tourism Agency until the agreement is terminated.
2. The revenues from rents are allocated and used according to the legislation into force.

CHAPTER IV FINAL PROVISIONS

Article 16

Sanctions

(Paragraph 1 is abrogated while paragraph 2 is amended and 3 is inserted with Law No. 67/2014, dated 25.7.2014)

1. Abrogated.
2. The failure of the interested entity or the stimulated person to pay the price within 6 months of the written notice, according to paragraph 3 of Article 10 of this law, is sanctioned with a fine of 10% of the total plot price for each month of delay, provided that the fine amount does not exceed the total price of the plot.
3. In the event the stimulated person has made any extensions to the construction permit, the sanctions foreseen in the Law No. 9482, dated 3.4.2006, "On Legalization, Urbanization and Integration of Illicit Constructions", as amended, are applicable. "

Article 17

Principles of issuing secondary acts

Any secondary act issued pursuant to this law is passed by observing the principles of fair compensation, equality before the law, legal certainty, and freedom of economic activity.

Article 18

Abrogation

Sub-paragraph 1/ç of paragraph 1, Article 6 of the Law No. 9235, dated 29.7.2004 "On Restitution and Compensation of Property", as amended, shall be abrogated.

Article 19

Entry into force

This law enters into force 15 days after its publication in the Official Journal.

Transitional provisions

(Provided by the Law No. 10395, dated 10.3.2011)

1. For any application filed by the stimulated persons, for which the review procedure has commenced, the ALUIIZC shall ask the National Tourism Agency and the stimulated person to provide a verification letter that the liabilities arising from the lease and development agreement are met.
2. Upon entry into force of this law, the National Tourism Agency shall send to the ALUIIZC the list of lease liabilities that the stimulated persons are due.
3. ALUIIZC is not allowed to conduct any review procedure for the subjects of paragraph 2, Article 3 of this Law.

Promulgated by Decree No.6347, dated 24.11.2009 of the President of the Republic of Albania, Bamir Topi.