

January 2017

In focus: Law on Housing and Building Maintenance

On December 22nd 2016, the National Assembly of the Republic of Serbia adopted the Law on Housing and Building Maintenance (hereinafter: the “Law”), which came into force on December 31st 2016.

The main objectives of the Law are: improving housing conditions and regulating relations between apartment owners with respect to the operation and maintenance of residential, business, and residential-business buildings.

In order to achieve the abovementioned objectives, the Law provides several novelties, among which we emphasize the following:

1. Definition of a building

The Law has changed the concept of a residential building compared to the previous applicable law, now defining it as a building intended for housing, **used for this purpose and consisting of at least three apartments**. In addition, for the first time the Law differentiates residential buildings from other types of buildings, thus it is defined that a family house consists of maximum two apartments, a residential-business building consists of at least one apartment and one office space, while a business building consists of one or more business spaces and is used exclusively for that purpose.

2. Residential community

The Law stipulates that a **residential building where at least two persons have ownership rights on two separate parts of the building, becomes a residential community and a legal entity** whose registration, registry code and TIN assignment shall be performed by the local self-government units which shall also keep the Register of residential communities - public electronic database and documents on residential communities. On the other hand, the Republic Geodetic Institute shall keep a unified, central, public electronic database which will contain consolidated data on residential communities from all registers on the territory of the Republic of Serbia.

The residential community will be responsible for damage arising from a breach or improper execution of activities within its jurisdiction, which, among other duties, includes works and maintenance of common parts of the building, maintaining the land intended for regular use of the building, access to common parts of the building, etc. In addition, along with all owners of separate or independent parts of the building, the residential community shall be responsible for any damage caused by part of the building when it is not possible to determine which separate or independent part of the building caused the damage.

3. Residential Building Manager

All owners of separate parts are members of the residential community assembly that elects and dismisses the residential building manager from the ranks of members of the residential community assembly (hereinafter: the “**Manager**”), for a period of four years, if a shorter time is not specified in the decision on election, with the possibility of re-election.

The Manager, in addition to representing the residential community, organizing work for emergency interventions, keeping records of income and expenses of the residential community, executing decisions of the residential community, making inventory of and labeling separate, joint and independent parts etc., is obliged to establish and keep **records on the owners of separate parts, owners of independent parts and lessees of joint or separate parts of the building**, using them on the basis of a lease agreement or on other grounds.

4. Professional Management

The Law also stipulates the establishment of professional management performed by business companies or entrepreneurs (organizer of professional management) by engaging a person who meets the requirements for a professional manager.

Management business can be entrusted to a professional manager by concluding a contract between the residential community and professional management organizer on the basis of a decision of the residential community or by a decision of the competent authority of the local self-government unit (enforced government) if an application for registration of the residential community is not submitted in

accordance with the Law, or after expiry/termination of the mandate if for any reason a new Manager has not been elected, on the basis of a report of the competent inspector or the owner of a separate part of the building.

A natural person acquires the qualification of a professional manager if he has at least secondary education of four years' duration, if he passes the exam for a professional manager and obtains a license in accordance with the law and is entered in the register maintained by the Serbian Chamber of Commerce.

In addition to activities of the Residential Building Manager, a professional manager is also in charge of:

- maintenance of the land used for regular building usage;
- receipt of notification on malfunctions or other problems (inobservance of rules of conduct, noise and other adverse impacts in the building) each day of the week, from 00-24 hours;
- informing the competent authority about the problem and requesting the undertaking of appropriate measures, based on the notification on malfunctions or other problems;
- recording each received notification with information about the problem and the time of receipt, as well as other information, if known;
- ensuring the execution of works on emergency interventions;
- proposing the fee to the residential community assembly for maintenance of common parts of the building and the land based on at least three bids collected from persons in charge of the maintenance of common parts of the building and land.

A professional manager is required to submit a report on its work to the residential community at least twice a year.

5. Maintenance

The owners or users of separate parts of the building are obliged to maintain their parts of buildings in order to ensure the functionality of said part of the building and to eliminate the risk of damage or inability to use other parts of the building.

Building maintenance can be entrusted by a contract to legal entities or entrepreneurs who operate in the field of building maintenance or may be forcedly entrusted to an organization assigned with services of public interest, if maintenance is not organized in accordance with this Law.

6. Apartment usage, eviction and housing support

The Law also regulates issues of apartment usage, eviction and housing support which is defined as any form of support for housing to a person who cannot solve the need for housing at market conditions for themselves and their family household due to any social, economic or other reasons.

The Law re-establishes jurisdiction of the municipality for the eviction of illegal occupants based on which, if a person **moves into** an apartment or common areas of residential, commercial or residential-buildings **without legal grounds**, the residential community manager, the owner of a separate part or other person with legal interest has the right to request his eviction to the competent authority of the local self-government unit, with a 90-days deadline for eviction.

On the other hand, **the eviction of persons from a building built contrary to the law** is carried out when necessary and justified in order to achieve public interest, primarily to protect the lives and health of people and for protection of property, or when bringing property to its urban purpose for the construction of buildings of public interest, and particularly when:

- the land is unfavorable for construction;
- it is performed during preparation for the implementation of an investment project and if previously proven that there is no alternative for relocation;
- the settlement is located in the first instance protection of natural resources, i.e. in a protected cultural property area;
- the settlement is located in protected zones around military facilities and infrastructures of special purpose.

7. Transitional and final provisions

In order to fulfill a public interest in the field of housing, i.e. for the purpose of establishing and implementing the housing policy, the Government shall adopt a National Housing Strategy and Action plan for its implementation, while the competent authorities shall adopt by-laws prescribed by this Law, within 12 months from the date of entry into force of this Law.

Upon entry into force of this Law, a building with at least two owners of two separate parts of a building shall become a residential community and a legal entity in accordance with this Law.

Registers and Central records stipulated by this Law shall be established within 12

months from the date of entry into force of this Law.

The building assembly or council formed in accordance with regulations that were applicable until entry into force of this Law, or owners of separate parts of the building in which a building assembly or council has not been formed, shall carry out registration of the residential community within 6 months from the date of forming the Registry in accordance with the provisions of this Law.

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