

**AMENDMENT OF ACT CXLI OF 1997
ON REAL ESTATE REGISTRATION**

-----Footnotes-----

* Passed by Parliament on December 21, 1999.

-----End Footnotes-----

AMEND-TEXT: Section 5.

Section 5 of Amendment of Act CXLI of 1997 on Real Estate Registration (hereinafter referred to as "REA") shall be replaced by the following provision:

"Section 5. (1) Real estate registration records shall be construed as authentic proof of registered rights and recorded facts. If a right or a fact has been registered or recorded in the real estate register, lack of knowledge of such shall not constitute an excuse under any circumstances.

(2) On the basis of rights registered and facts recorded in the real estate register, it is to be presumed that such registered rights and recorded facts pertain, until proven otherwise, to the right-holder thereof. In the event of abrogation of any right or fact, it shall be presumed, until proven otherwise, that such abrogated right or fact does not prevail.

(3) Rights registered and facts recorded in the real estate register for the benefit of a party acquiring in good faith shall be construed as true, until proven otherwise, even if such deviate from the actual legal status. For the purposes of real estate registration, a person acquiring a right in a real property by payment of consideration, as trusting in the real estate register, shall be construed as a party acting in good faith.

(4) A person acquiring some right that is not entered in the real estate register or the holder of a right or the beneficiary of a fact that was canceled from the real estate register may not enforce such right against a party acquiring in good faith which is registered in the real estate register or who enjoys priority before such person.

(5) Rights registered and facts recorded on the basis of an invalid document in the real estate register on behalf of a bona fide third party may not be canceled from the real estate register after three years from the date applicable to the ranking of such.

(6) If a party claims that data in the real estate register are incorrect or untrue, the party making such claim shall be required to present the evidence in support of said claim.

(7) If the size of a real property indicated on the title deed differs from the size to be determined by virtue of a separate legal regulation on the basis of the boundaries marked in the realty map, the latter shall be authoritative."

Section 6.

Section 16 of REA shall be replaced by the following provisions:

"Section 16. The following property-related rights, and the holders of such, may be recorded in real estate registers:

- a) ownership rights, and, in respect of state-owned real estate, the organization exercising the state's ownership rights and asset management rights,
- b) permanent right of use for members of housing cooperatives,
- c) land use on the basis of agreement or court decision,
- d) usufruct and the right of use,
- e) easement rights,
- f) permanent geodetic markings, land survey pilot areas, right of use for the placement of power supply equipment, furthermore, cable rights, water line and mining easement rights, furthermore, easement rights and utilization rights in the public interest as prescribed by law,
- g) right of first refusal and right of repurchase and purchase,
- h) right of support and life annuity,
- i) mortgage (independent lien),
- j) right of execution."

Section 7.

(1) Subsection (1) of Section 17 of REA shall be replaced by the following provision:

"(1) Only the following property-related facts of legal significance may be recorded in real estate registers:

- a) reference to the right-holder of record being under the legal age, or having such person placed in conservatorship,
- b) liquidation or voluntary dissolution proceedings instituted against the right-holder of record,
- c) cancellation of a branch office or representative office of a foreign-registered company from the register of companies,
- d) commencement of expropriation and lot formation proceedings,
- e) appeal and petition for legal remedy against a land title office resolution,
- f) petition for court review of a court decision serving as basis for registration or related to such,
- g) the property's legal status,
- h) rejection of registration,
- i) construction or demolition of a building,

- j) suspension of proceedings,
- k) the extent and nature of permanent environmental damage established by a definitive regulatory or court resolution.
- l) ownership restriction(s) based on a court decision,
- m) ban on lot formation and construction, and other construction-related restrictions imposed on the basis of court or regulatory decision(s),
- n) ban on alienation or encumbrance on the basis of contract or testamentary disposition,
- o) commencement of the lawsuits and criminal proceedings specified in this Act,
- p) scheduling of an auction,
- q) attachment, sequestration, and securing actions taken prior to sequestration,
- r) sale with retention of ownership,
- s) maintaining the ranking of a canceled lien, or waiver of the right of disposition of ranking,
 - 1) advance reservation of ranking for mortgage,
 - u) alteration of ranking."

(2) Subsection (2) of Section 17 of REA shall be replaced by the following provision:

"(2) Failure to register the facts described in Paragraphs a)-k) of Subsection (1) shall have no effect on the legal impact of such facts. In the event of failure to register the facts described in Paragraphs l)-u) the right-holder of record may not enforce such against a bona fide third party."

Section 8.

The following Subsection (8) shall be added to Section 26 of REA:

"(8) If the foreign person indicated in the application for registration has no domicile in Hungary, the name and residence (or company) address of the Hungarian delivery agent of such person shall be attached with the application for registration, as well as the statement of acceptance from the agent."

Section 9.

Section 32 of REA shall be replaced by the following provisions:

"Section 32. (1) In order to be recorded in the real estate register, a document issued in Hungary shall contain the following:

- a) family and surname, including full maiden name when applicable, year of birth, mother's maiden name, address and the personal identification number of the person concerned,

- b) the name, registered office, statistical number, and the court or company registration number of organizations,
- c) full address and description of the property in question (settlement, topographical lot number),
- d) detailed description of the right or fact,
- e) the legal grounds for the change,
- f) agreement of the parties concerned, a statement of authorization by the registered owner,
- g) contracting parties' statement concerning their respective citizenship, if a resident for foreign exchange purposes is construed as a foreigner in accordance with Act LV of 1994 on Arable Land, an indication of such fact.

(2) A private document issued in Hungary shall only be accepted for real estate registration purposes if the date and location of issue are clearly indicated, and if

- a) it was written and signed by the person named therein, or
- b) it was signed by two witnesses, name and address included, verifying that the person named therein signed the document, if not written by him, before them, or has pronounced the signature as his own, or
- c) the document was prepared by a notary public, or
- d) countersigned by an attorney, furthermore, if
- e) was properly signed under authority on behalf of an artificial person,
- f) if the document contains more than one page, each page has the initials of the contracting parties, of the person it was drafted by, the counter-signatory and of the witnesses, and satisfies the formal requirements specified by law for notarial documents,
- g) contains the signatures of authorized persons and the parties to be clearly identified based on the document.

(3) Creation, modification or termination of ownership, usufruct, right of use, easement right, purchase right and mortgage (independent lien) may be registered on the basis of public documents, or private documents countersigned by an attorney. A legal counsel may also act as a counter-signatory if either of the contracting parties is an organization represented by such legal counsel. A document drafted and countersigned by an attorney, or one witnessed and notarized by a notary public who is named as a contracting party may not be accepted for registration purposes.

(4) A countersigned private document may be accepted for registration purposes if it contains the name, signature, registered office of the counter-signatory, the date of execution and the note "countersigned". Countersigning by an attorney shall be valid only if sealed by embossed stamp.

(5) Registration of a mortgage having been filed or terminated may be also be performed on the basis of a private document signed by an authorized signatory of a credit institution, with the

name of the credit institution indicated."

Section 10.

The following Section 52/A shall be added to REA:

"Section 52/A. (1) A resolution shall be considered delivered by service of process on the fifth working day following the second attempt of delivery by the postal service to the mailing address or, in the absence of such, to the residence address indicated in the real estate register or in document based on which registration was effected, or upon having the second notification deposited into the post office box (mail box).

(2) If a resolution is returned to the sender stating that the addressee cannot be located or his address is unknown, the resolution shall be posted for public display on the notification board of the local branch of the land title office or of the town hall for thirty days, Date of service of the resolution shall be the day when removed from public display. The resolution, if posted for public display, shall indicate the date of posting and the date of removal.

(3) The provisions set forth in the legal regulations on simplified delivery procedures and postal activities shall be observed in respect of other issues pertaining to the delivery of real estate registration related documents."

Section 11.

(1) Subsection (3) of Section 54 of REA shall be replaced by the following provision:

"(3) The land title office may not abrogate its resolutions on registration of rights and facts. If an appeal or petition for court action is filed the land title office may modify, within its own sphere of competence, its resolution of rejection as consistent with the petition within 8 days of the date of appeal or of receipt of the petition for legal remedy by the courts."

(2) The following Subsection (5) shall be added to Section 54 of REA:

"(5) No supervisory measures (Section 71 of SAPR) may be initiated against the land title office's resolution concerning the registration of rights and facts."

Section 12.

Subsection (1) of Section 60 of REA shall be replaced by the following provision:

"(1) The provisions of Chapter XX of CPC shall apply to court proceedings initiated on the basis of a petition filed against a county land title office resolution."

Section 13.

Subsection (3) of Section 68 of REA shall be replaced by the following provision:

"(3) If, in the course of fulfillment of its obligation of data disclosure, a local land title office produces by any method a copy of a title deed that was created prior to 1 January 1992 and which contains a personal identification number, the copy produced in such manner may contain the aforementioned personal identification code."

Section 14.

(1) Subsection (1) of Section 90 of REA shall be replaced by the following provision:

"(1) The Minister of Agriculture and Regional Development shall provide for the implementation of this Act in agreement with the Minister of Justice, the Minister of Finance and the Minister of the Interior."

(2) The following Subsection (2) shall be added to Section 90 of REA, and simultaneously the current numbering of Subsection (2) shall be changed to Subsection (3).

"(2) The Minister of Agriculture and Regional Development is hereby authorized to establish, in agreement with the Minister of Finance, the fees payable for connection to the land title office database, the conditions on receiving information through electronic channels and the terms of payment and extent of fees payable for such information."

Section 15.

(1) Subsection (1) of Section 91 of REA shall be replaced by the following provision:

"(1) This Act shall enter into force on 1 January 2000, however pending matters shall be concluded in compliance with the previous provisions."

(2) Subsection (4) of Section 91 of REA shall be replaced by the following provision:

"(4) This Act shall not apply to land use rights of agricultural cooperatives and the registration of such until valid, and to long-term land use rights and to real property rights of foreign nationals registered in the real estate register prior to the entry into force of this Act, furthermore, in terms of management rights, the provision of a separate Act which stipulates that management rights registered in the real estate register are to be hereinafter understood as asset management rights."

Section 32.

(1) Upon this Act entering into force the passage "lease right" in Subsection (1) of Section 50 of REA shall be repealed.