

Law of the Azerbaijan Republic

About property in Azerbaijan Republic

Section I. General

Clause 1. Proprietary right

1. Proprietary right in Azerbaijan Republic arises according to procedure and on terms envisaged by legislation of Azerbaijan Republic.
2. The owner possess, uses and disposes of property belonging to him at his own discretion.
The owner might delegate his authority in possession, use, disposal of his property to other person, might use the property as security or burden it in some other way, might transfer his property for possession or management to the other person, he is also authorised to undertake any actions concerning his property that do not contradict legislation. The owner might use his property for accomplishment of any business and other activity not prohibited by the Law.
3. Results of economic and other use of the property (products and profits) belong to the owner of this property if not specified otherwise by the Law or agreement.
4. When exercising his right for property the owner has the right, on terms and within the limits envisaged by legislative acts of Azerbaijan Republic and Nakhichevan Autonomous Republic, to conclude agreements with citizens about use of their labour.
5. In some cases, on terms and within the limits envisaged by legislative acts of Azerbaijan Republic and Nakhichevan Autonomous Republic, the owner might be charged with obligation to allow limited use of his property by the other persons.
6. Enjoyment of the proprietary right should not result in environmental deterioration, violation of rights and interests of citizens, enterprises, companies, organisations and state being under protection of Law.

Clause 2. Legislation of Azerbaijan Republic concerning property

1. Proprietary relationships in Azerbaijan Republic are governed by Laws of Azerbaijan Republic and normative acts, interstate agreements issued in connection therewith and also legislation of Nakhichevan Autonomous Republic, acts of local Councils of People's Deputies issued within the limits of their authority.
2. In connection with historical and cultural memorials specificity of proprietary rights are determined by special legislative acts of Azerbaijan Republic.
Rights concerning creation and use of scientific, literary and art works, inventions, innovations, industrial specimens, software and other objects of intellectual property are controlled by Author's right and other acts of Civilian Legislation and also intergovernmental agreements.

Clause 3. Objects of proprietary right

Land, its entrails, inner and territorial waters, continental shelf, air basin, flora and fauna, enterprises, property complexes, buildings, structures, equipment, raw and other materials, money, securities, other property of industrial, social, cultural and other character, products of intellectual

and creative activity.

Clause 4. Subjects of proprietary right. Forms of property

1. Subjects of proprietary right in Azerbaijan Republic are Azerbaijan Republic, Nakhichevan Autonomous Republic, local Councils of People's Deputies, collective companies (co-operatives, economic companies and associations, rental enterprises), public associations and religious organisations, citizens.
2. Property in Azerbaijan Republic might assume forms of state, collective and private property. Within the limits of legislation of Azerbaijan Republic property belonging to citizens and legal entities of Azerbaijan Republic and other states might be united, with formation of mixed form of property. Kind of mixed property is determined by status of the owners uniting their property.
3. Within the limits of legislation of Azerbaijan Republic foreign states, their legal entities and citizens, international organisations might possess property at the territory of Azerbaijan Republic.
4. The state will provide conditions necessary for development of various forms of property and protection thereof. Establishment of limitations or advantages concerning proprietary right depending on the kind of property is not allowed.

Clause 5. Material rights

1. In cases provided for by the Law and also at the owner's discretion other persons might be granted rights for possession, use and disposal of the property, said persons shall exercise these rights within the limits established by the Law or the owner of the property.
Persons exercising economic or other use of the property of the owner on said terms shall enjoy the same guarantees of protection of their rights and interests as the owner, if not specified otherwise by legislative acts of Azerbaijan Republic and Nakhichevan Autonomous Republic.
2. The owner might register the property belonging thereto with the established enterprise on terms of full economic activity. Exercising economic activity in connection with the property registered with it the enterprise possesses, uses and disposes of said property, accomplishes any acts in connection therewith, not contradicting the Law. Regulations on proprietary rights are applied to the right of full economic activity if not specified otherwise by legislative acts or agreement concluded between the enterprise and the owner.
The owner or persons authorised by the owner to exercise control over his property make decisions concerning establishment of the enterprise and determination of the aims of its activity, its reorganisation and liquidation in accordance with the Law and constituent documents of Enterprise, accomplish control over efficiency of the use and safety of the property given to them.
The owner has the right to obtain profits from the use of the property given by him to the enterprise, in the amounts determined by agreement between the owner and enterprise. Any disputes that might arise when determining this share of profits are to be settled in the Law Court or Arbitration Court.

3. The property registered by the owner with the state or other organisations being financed at the expense of the owner is under current control of this enterprise, which, within the limits and according to procedure established by the Law, following the aims of its activity, orders from the owner and destination of the property, exercises right of possession, use and disposal thereof.

The owners of the property registered with organisation have the right to withdraw said property or redistribute it among other legal entities established by them at their own discretion if not specified otherwise by legislation of Azerbaijan Republic and Nakhichevan Autonomous Republic.

4. Enterprises exercising economic activity by the owner' consent in cases envisaged by legislation of Azerbaijan Republic and Nakhichevan Autonomous Republic, shall acquire the right for independent disposal of profits obtained as a result of said activity and property purchased at the expense of said profits.

Clause 6. Cessation of proprietary right

Cessation of proprietary right against the owner' will is not permitted except cases when penalty is being imposed as per the owner' obligations, in cases and according to procedure envisaged by legislative acts of Azerbaijan Republic and Nakhichevan Autonomous Republic.

In cases of natural calamities, accidents, epidemic, epizootic and similar circumstances, on decision of state power bodies the property might be withdrawn from the owner temporarily or forever, according to procedure and on terms envisaged by legislative acts, with payment of property cost (requisition) or lost profits.

In cases envisaged by legislative acts the property might be taken from the owner on decision of Law Court, Court of Arbitration or other authorised state body (official) as a sanction for crime or other violation of law (confiscation).

Clause 7. Imposition of penalty on the owner' property

1. Concerning obligations of legal entity penalty might be imposed on any property belonging to this entity or being operated by him on terms of full economic activity.

State or other company is responsible for its obligations using all money being at its disposal. Whenever there is not enough money at disposal of state or other company the owner of respective property will bear responsibility for obligations of this company.

2. The owner or constitutor of legal entity is not responsible for obligations of the owner or constitutor except cases envisaged by the present Law, other legislative acts of Azerbaijan Republic and Nakhichevan Autonomous Republic, or by constitutors of legal entity.

3. Obligations of the citizens are secured by property belonging to them.

List of the property of citizens that cannot be used as security for fulfilment of claims of creditors is given in the Civil Code of Azerbaijan Republic.

4. Withdrawal of debts as per obligations of the owners to the state, including debts due to the budget is allowed in cases envisaged by legislative acts of Azerbaijan Republic and Nakhichevan Autonomous Republic. Whenever the owner is

dissatisfied with decision about such fine, he will have the right to apply to Law Court or Court of Arbitration.

Clause 8. Property outside the territory of Azerbaijan Republic Terms and procedure of possession, use and disposal of state, co-operative property, property of public and religious organisations and also citizens of Azerbaijan Republic residing in other states are determined by laws of the states wherein the property is located and also by concluded agreements and regulations of international legislation.

Section II. Right of state property

Clause 9. General provisions concerning state property

- 1.State property of Azerbaijan Republic belongs to the people of Azerbaijan. State property of Azerbaijan Republic is an integral part of state property of Azerbaijan Republic.
- 2.On decision of Supreme Council of Azerbaijan Republic part of state property thereof might be given to local power bodies (municipal property).
- 3.Respective Councils of Peoples' Deputies and state bodies authorised by them dispose of and control state property, without violation of interests of Azerbaijan Republic.
- 4.Provisions of the present Law are applicable to joint and state property of other states being at the territory of Azerbaijan Republic.

Clause 10. Objects of the right of state property

- 1.Land, its entrails, inner and territorial waters, continental shelf, flora and fauna, air basin within the borders of Republic are exclusive property of Azerbaijan Republic. Land might be granted by Azerbaijan Republic to its citizens as a property.
- 2.Azerbaijan Republic has the right to possess, use and dispose of resources of Caspian Sea economic zone adjoining its territory within the limits recognised by international legislation.
- 3.Azerbaijan Republic has the right for its share in the property that has been formed in the USSR, including diamond and hard currency funds and gold reserves.
- 4.Enterprises of all branches of economy, power networks (systems), transport and communication systems, state housing fund, property of state companies, cultural values and historical memorials, objects of infrastructure including recreation-tourist ones, other property necessary for fulfilment of objectives facing Azerbaijan Republic as sovereign state constitute state property of Azerbaijan Republic.
- 5.Enterprises or their parts located at the territory of other countries and established at the expense of state financial resources of Azerbaijan Republic are also state property of Azerbaijan Republic.

Clause 11. Municipal property

- 1.Property of local state power bodies and local self-control bodies, finances (resources) of local budget and extra-budgetary fund, housing fund, non-living premises in the buildings of housing fund, objects of engineering infrastructure (structures and networks of water, sewage

pipelines, heat supply, electric power supply, electric city transport, objects of city improvement) and other objects that render services directly to customers and are located at the territory of Councils of People's Deputies might constitute municipal property.

2. Agricultural enterprises, enterprises of trade, everyday services, transport, industrial, construction and other enterprises, property complexes, educational institutions, objects of culture, public health and other property necessary for economic and social development of administrative territorial formations might constitute municipal property.
3. Legal terms for the property belonging to local state power bodies are established in accordance with legislation of Azerbaijan Republic.
4. Transfer, withdrawal and redistribution of objects constituting the property of local state power bodies without agreement therewith, except cases envisaged by legislation of Azerbaijan Republic, are prohibited.

Clause 12. Property of state and municipal enterprises and organisations

1. State or municipal property, registered with state or municipal enterprise belongs to the enterprise as economic unit.
2. Whenever the body authorised to exercise control over state or municipal property makes decision about reorganisation or liquidation of state or municipal enterprise, except cases when it has been recognised insolvent (bankrupt) working collective has the right to demand for lease of the enterprise or reorganisation thereof into other enterprise based on the right for collective or private property.
3. State or municipal property that has been registered by the owner with the enterprise being on state or municipal budget is subject to control of said enterprise.

Clause 13. Alienation and privatisation of state and municipal property

Enterprises, property complexes, buildings, structures and other property being state or municipal property might be alienated and become the property of citizens and legal entities according to procedure and on terms established by legislative acts of Azerbaijan Republic and Nakhichevan Autonomous Republic and acts of local Councils of People's Deputies issued within the limits of their competence.

Section III. Right of collective property

Clause 14. General provisions concerning the right of collective property

1. Right of collective property is totality of rights of collective (group of persons) being under protection of Law and concerning simultaneous possession, use and disposal of the property.
The property might belong on terms of collective possession, with estimate of the share of each owner (shared property) or without such estimate (joint, or collective property).
2. Property of collective enterprises and enterprises taken on lease, co-operatives, stock companies, economic associations, trade unions and other public and religious organisations,

associations of public movements of citizens being legal entities.

3. Collective property is formed at the expense of handing over state property to the collective according to legal procedure, establishment or purchase of the property at the expense of own or borrowed money of legal entities.
4. Possession, use and disposal of the property belonging to the collective is realised on agreement of all owners; if such agreement could not be achieved, then claim of any owner should be solved in the Law Court or Court of Arbitration.
5. Whenever share in the collective property is being sold to the third party all other participants of collective property have priority right for purchase of said share according to procedure and on terms established by legislation of Azerbaijan Republic and Nakhichevan Autonomous Republic.

Clause 15. Property of the enterprise

Economic companies and associations, co-operatives, collective and other enterprises established as owners of the property and being legal entities have the right on property given to them as contributions and in other form by their participants and also on property obtained as a result of their business activity and acquired legally in some other way. Stock companies also own money obtained as a result of sale of the bonds.

Clause 16. Property of business association

1. Association of economic companies, collective enterprises and enterprises taken on lease, co-operatives and other legal entities (concerns, associations, unions, interbranch regional and other companies) being legal entity has the right on property given to it voluntarily by its participants and also obtained as a result of business activity thereof.
2. Business association has no right for other property of participants of the Association.
3. Property remained after termination of activity of Association will be distributed between constituent enterprises and organisations.

Clause 17. Property of public organisations

1. Public organisations being legal entities might possess buildings, structures, housing fund, equipment, accessories, property of cultural-educational character, money, bonds, securities and other property necessary for accomplishment of business activity according to Statutes of these organisations. Public organisations might carry out business activity, produce and acquire enterprises and other property for accomplishment of this activity within the limits of objectives specified in their Statutes.
2. Enterprises and organisations established or acquired by public organisations that are legal entities have full right for accomplishment of economic activity or current control over property registered therewith.
3. After settlements with budget and banks and also other creditors' property remained after liquidation of public organisation shall be used for accomplishment of objectives envisaged in its Statute.

Clause 18. Property of charitable and other public funds

- 1.Charitable and other public funds being legal entities have the right for property that has been given to them by constitutors for accomplishment of activity envisaged by their statutes. Charitable and other public funds have the right for property acquired or formed by them at the expense of their own money, including profits from their own economic activity and also for property given to them by citizens, legal entities or government, purchased on some other terms not contradicting the Law. They publish reports about use of property belonging to them.
- 2.Whenever charitable or other public funds acquire or purchase enterprises and organisations being legal entities, and also in case of liquidation of other charitable fund provisions envisaged respectively in paragraphs 2 and 3 of Clause 17 of the present Law will be applied.

Clause 19. Property of religious organisations

- 1.Religious organisations being legal entities might own buildings, cult (religious) articles, objects of industrial, social and charitable destination, money or other property necessary for their activity.
Religious organisations have the right for property acquired or formed by them at the expense of their own money, donated by citizens, organisations or given for possession, use and disposal by the state or acquired on some other terms, not prohibited by the Law.
- 2.Enterprises and companies established by religious organisations as legal entities have the right to exercise economic activity and current control over the property registered with them.
- 3.In case of liquidation of religious organisation its property, after settlements with the budget, banks and other creditors, shall be used according to provisions of its Statute.

Section IV. Right on private property

Clause 20. General provisions concerning the right of private property

- 1.Right of private property is totality of rights of individuals being under protection of Law and concerning possession, use and disposal of productive facilities, non-productive articles and values, money and securities and results of their use. When realising right of private property hired labour might be used, according to procedure and within the limits envisaged by legislation.
- 2.The citizen has exclusive right to use his abilities for productive and creative activity.
- 3.Property of the citizen is formed and increases at the expense of his profits obtained as a result of participation in productive process, other use of his abilities, business activity, inherited property and other ways not contradicting the Law.
- 4.Rights of the citizens for inheritance are recognised and protected by Law.

Clause 21. Objects of proprietary right of the citizen

- 1.The citizens might possess:
 - land sites;
 - houses, apartments, country houses, garages, domestic

- utensils and articles for private use;
 - shares, bonds and other securities;
 - facilities of mass media;
 - enterprises, property complexes in productive sphere, of consumer, social, cultural destination except some kinds of property envisaged in legislative acts, which cannot belong to the citizens from the point of view of state or public security, or due to international obligations.
2. Amount and cost of the property purchased by the citizen according to Law or agreement are not limited.
 3. Member of housing, house-building co-operatives, co-operatives on construction of country-houses, garages who paid total amount for apartment, country house, garage, other building or structure given to them for use acquires the right for this property.
Citizen who has acquired as his property said structures and premises according to agreement concluded with the owner of this property or inherited it becomes a member of respective co-operative having submitted application.
 4. Leaseholder of living premises in the state, public and housing fund of local Councils of People's Deputies and members of his family have the right to acquire respective apartment, house as their property having bought them back, or in some other way, according to legislation of Azerbaijan Republic and Nakhichevan Autonomous Republic.
 5. The citizen having as his property apartment, living house, country house, garage, other premises and structures has the right to dispose of this property at his own will: to sell, leave it to anybody in his will, to give it as a present, to let on lease, accomplish other acts not contradicting the Law.
 6. The citizen might exercise business activity using his property as contribution to economic companies and associations, co-operatives, collective and other enterprises, other unions of citizens and legal entities.
 7. The citizen might use the property belonging to him for economic activity without establishment of legal entity.
 8. Whenever the property of the citizen is registered with the enterprise established by him he will acquire the rights envisaged by paragraph 2 of Clause 5 of the present Law.
 9. For establishment of the agricultural company (farm), gardening, market-gardening and other forms of agricultural activity and also construction of living house, garage, other auxiliary facilities the citizens have the right to purchase land sites according to legislation of Azerbaijan Republic.
For the same purposes land sites might be given to citizens for life, with right for inheritance. Products produced at these sites and obtained profits are the property of the citizen and might be used by him at his own discretion.

Section V. Protection of the proprietary right

Clause 22. General provisions concerning protection of proprietary right

1. The owner has the right to demand his property from the strange illegal possession.
If the property has been acquired for money from the person who had no right to estrange (alienate) it, provided that the buyer didn't know and could not know about that (conscientious buyer) then the owner has the right to demand this property

from the buyer in case if the property was lost by the owner or the person who obtained it for possession, or was stolen, or ceased to be the property in some other way against their will. Money and also bearer securities could not be demanded from conscientious buyer.

2. The owner might demand liquidation of any violations of his right even if such violations were not related to termination of ownership.
3. Damages borne by the owner as a result of crime will be compensated by the state bodies, on decision of the Law Court. Expenses borne by the state will be withdrawn from the guilty party according to legislation of Azerbaijan Republic.
4. Protection of the proprietary right shall be accomplished by Law Court or Court of Arbitration.
5. Rights as per the present Clause belong also to the person, not being the owner, however possessing the property on terms of full economic activity, current control, inherited for life or on some other terms envisaged by the Law or Agreement. This person has also the right for protection of his property against the owner.

Clause 23. Protection of the interests of the owner on termination of his rights in cases envisaged by the Law

In cases when Azerbaijan Republic or Nakhichevan Autonomous Republic accepts legislative acts terminating proprietary rights losses borne by the owner as a result of such acts will be compensated in full amount by Azerbaijan Republic or Nakhichevan Autonomous Republic.

Whenever any disputes or disagreements arise they should be settled in the Law Court.

Clause 24. Invalidity of acts violating rights of the owners

1. If, as a result of issue of the act contradicting the Law by the state control bodies or local body of state power the rights of the owner and other persons possessing, using and disposing of the property are violated, such act might be recognised as invalid on the claim of the owner or the person whose proprietary right has been violated.
2. Losses borne by citizens, organisations and other persons as a result of issue of said acts and also lost profits are to be compensated in full amount at the expense of money being at disposal of respective power or control body.
3. Termination of proprietary right in connection with decision of state body directed to withdrawal of the property from the owner, including decision about withdrawal of land site whereon the building, other structures and plants belonging to the owner are located is permitted only in cases and according to procedure established by legislative acts of Azerbaijan Republic and Nakhichevan Autonomous Republic, provided that the owner is given property of equal value and compensated losses borne by him as a result of termination of proprietary right.

If the owner disagrees with decision leading to termination of proprietary right this decision could not be realised before the dispute is settled in the Law Court or Court of Arbitration. In the course of settlement of dispute all questions of compensation of losses borne by the owner shall be also settled.

President of Azerbaijan Republic

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Baku, November 9, 1991
No 256-XII