

20151534388

ASSEMBLY OF THE REPUBLIC OF MACEDONIA

Pursuant to Article 75 paragraphs 1 and 2 of the Constitution of the Republic of Macedonia, the President of the Republic of Macedonia and the President of the Assembly of the Republic of Macedonia issue this

DECREE FOR PROMULGATION OF THE LAW ON AMENDING THE LAW ON REAL ESTATE CADASTRE

The Law on Amending the Law on Real Estate Cadastre,
adopted by the Assembly of the Republic of Macedonia on its session held on 27 August 2015 is
hereby promulgated.

No. 08-3992/1
27 August, 2015
Skopje

President of the
Republic of Macedonia,
Gjorge Ivanov, PhD. personal signature

President of the
Assembly of the Republic of
Macedonia
Trajko Veljanoski, personal signature

LAW ON AMENDING THE LAW ON REAL ESTATE CADASTRE

Article 1

In the Law on Real Estate Cadastre (“Official Gazette of the Republic of Macedonia” number 55/13, 41/14, 115/14 and 116/15), in Article 172 paragraph (1) the following words: “or in accordance with the decision for construction, that is, installation of equipment” shall be added after the words: “building permit”.

In paragraph (3) the words “or the final decision for construction, that is, installation of the equipment” shall be added after the word “construction”.

In paragraph (4), the comma after the words: “building permit” shall be deleted and the following words shall be added: “or the decision for construction, that is, installation of equipment”.

Article 2

A new title and a new Article 174-a shall be added after Article 174, which shall read:

“A registration based on a solemnized Purchase and Sale Agreement or a Notary Act, with a clause for paid advance sales tax on real estate

Article 174-a

(1) The registration in the Real Estate Cadastre shall also be made on the basis of a solemnized Purchase and Sale Agreement or a Notary Act, with a clause for paid advance sales tax on real estate, in addition to which a notary public shall electronically submit a report on the assessment of the market value of the real estate and a calculation of the advance sales tax prepared by an authorized appraiser, as well as a completed advance payment tax return.

(2) The legal bases referred to in paragraph (1) of this Article together with the appendices, shall electronically be submitted by the Agency to the competent local self-government unit within a period of one working day after the registration in the Real Estate Cadastre.”

Article 3

Article 246 shall be amended and shall read:

“(1) A fine in the amount of 2,500 euros in MKD counter value shall be imposed for a misdemeanor to the legal entity, that is, to the sole proprietor, if:

1) it removes, damages, destroys or moves a point from the geodetic reference network referred to in Article 49 paragraph (1) of this Law or if it does not report every destruction, damage or unauthorized move to the Agency within a period of 15 days after the date of its detection, in accordance with paragraph (2) of the same article;

2) it fails to notify the Agency about the performance of construction or other works that can damage, destroy or move the points from the geodetic reference network referred to in Article (50) paragraph (1) of this Law within the prescribed deadline;

3) it fails to submit to the Agency an application for registration of the change in the Real Estate Cadastre within the prescribed deadline, in accordance with Article 202 of this Law;

4) it produces cartographic products without prior authorization issued by the Agency in accordance with Article 99 paragraph (2) of this Law and

5) it puts cartographic products into use without the consent of the Agency in accordance with Article 101 of this Law.

(2) A fine in the amount of 30% of the measured fine for a legal entity, that is, a sole proprietor, shall also be imposed for the misdemeanor referred to in paragraph (1) of this Article on the responsible person in the legal entity, that is, the sole proprietor.

(3) A fine in the amount of 250 to 325 euros in MKD counter value shall be imposed on the natural person for the misdemeanors referred to in paragraph (1) of this Article.

(4) A fine in the amount of 20,000 euros in MKD counter value shall be imposed for a misdemeanor on the legal entity, that is, the sole proprietor as a right-holder, or as a holder of the infrastructure facility if it fails to submit applications for registration/recording of the infrastructure facilities within the deadline prescribed in Article 57 of this Law.

(5) A fine in the amount of 30% of the measured fine for a legal entity, that is, a sole proprietor, shall also be imposed for the misdemeanor referred to in paragraph (4) of this Article on the responsible person in the legal entity, that is, the sole proprietor.

Article 4

Article 246-a shall be amended and shall read:

“(1) A fine in the amount of 5,000 euros in MKD counter value shall be imposed on the authorized legal entity that technically conducts the exam referred to in Article 108-d of this Law, if it does not record it, broadcast it live on the website of the Agency and post the recording of the overall exam on the website of the Agency.

(2) A fine in the amount of 500 to 800 euros in MKD counter value shall be imposed on the authorized representative referred to in Article 108-d paragraph (5) of this Law if it acts contrary to Article 108-e paragraph (9) of this Law.

(3) A fine in the amount of 5,000 euros in MKD counter value shall be imposed on the authorized institution conducting the exam referred to in Article 108-d of this Law if it does not terminate the exam in accordance with Article 108-e paragraphs (5) and (6) of this Law.

(4) A fine in the amount of 1,000 to 1,300 euros in MKD counter value shall be imposed on the Director of the Agency if he does not adopt the decision within the deadline referred to in Article 108-k paragraph (9) of this Law.”

Article 5

Article 247 shall be amended and shall read:

“(1) A fine in the amount of 1,500 to 2,500 euros in MKD counter value shall be imposed on the authorized surveyor employed by a sole proprietor – authorized surveyor or by a trade company for geodetic works if the authorized surveyor fails to act in accordance with the provisions of Article 110 of this Law, and:

1) if he does not perform the geodetic works in accordance with the provisions of this Law and the regulations adopted on the basis thereof, and in accordance with the rules and standards of the geodetic profession;

2) if he does not sign every geodetic report prepared in writing with his personal signature, and if he does not sign the geodetic reports prepared in electronic form with a valid certificate issued by an authorized issuer;

3) if he does not use a licensed software when preparing the geodetic report;

4) if he does not use the data from the Real Estate Cadastre and if he does not use them solely for the purpose for which they were issued;

5) if he does not apply for the renewal of the license within the deadline specified in Article 109 paragraph (3) of this Law;

6) if he prepares geodetic reports without a previously conducted on site survey and inspection of the real estate and

7) if he does not attend a continuous training in the field of geodetic works.

“(2) A fine in the amount of 1,500 to 2,500 euros in MKD counter value shall be imposed on the authorized surveyor who is not employed by a sole proprietor- authorized surveyor or by a trade company for geodetic works, however performs geodetic works for a sole proprietor-authorized surveyor, that is, a trade company for geodetic works (Article 110 paragraph (2)).”

Article 6

Article 248 shall be amended and shall read:

“(1) A fine in the amount of 4,000 euros in MKD counter value shall be imposed on the trade company for geodetic works, that is, the sole proprietor – authorized surveyor, if:

1) their employed authorized surveyors do not attend a continuous training in the field of geodetic works (Article 110 paragraph (1) indent 7);

2) the title contains the word “cadastre” and does not meet the necessary requirements for premises and equipment (Article 118 paragraph (2));

3) the requests of the parties are not registered in the log book and if the log book is not kept in accordance with the regulations on archive material and archiving (Article 126) and

4) the Tariff List referred to in Article 125 of this Law is not placed in a prominent place in their headquarters, as well as in their subsidiary if there is one.

(2) A fine in the amount of 30% of the measured fine for a legal entity, that is, a sole proprietor, shall also be imposed for the misdemeanor referred to in paragraph (1) of this Article on the responsible person in the legal entity, that is, the sole proprietor.

Article 7

Article 249 shall be amended and shall read:

“(1) A fine in the amount of 8,000 euros in MKD counter value shall be imposed for a misdemeanor on the trade company for geodetic works, that is, the sole proprietor- authorized surveyor, if:

1) it is not registered in the Trade Register with a predominant activity of performance of geodetic works (Article 104 paragraph (1) indent 1);

2) it does not provide an uninterrupted performance of the works, if it does not provide the necessary conditions for working and determination of the actual situation and if it does not provide all the necessary documents and data for inspection in accordance with Article 243 paragraph (1) of this Law;

3) it does not eliminate the identified irregularities within a period of 15 working days (Article 243 paragraph(3)) of this Law;

4) it does not perform the geodetic works in accordance with the provisions of this Law and the regulations adopted on the basis thereof, and in accordance with the rules and standards of the geodetic profession (Article 121 indent 1);

5) it committed an irregularity in respect of the obligation for insurance against damages referred to in Article 117 of this Law;

6) it does not meet the requirements referred to in the articles, Article 104 paragraph (1) indent 2 and Article 120 of this Law, regarding employees;

7) it committed an irregularity in respect of the obligation for using a licensed software referred to in Article 104 paragraph (1) indent 4 of this Law;

8) it violated the provision of Article 25 paragraphs (2) and (3) of this Law in respect of a conflict of interests;

9) it violated the provision of Article 124 paragraph 3 in respect of the obligation to connect with the Agency by electronic means;

10) it prepares geodetic reports without a previously conducted on site survey and inspection of the real estate (Article 110 paragraph (1) indent (6));

11) it does not use the data from the Real Estate Cadastre and if it does not use them solely for the purpose for which they were issued (Article 124 paragraph (1) and paragraph (2));

12) it charges a fee for the geodetic works that is not in accordance with Article 125 of this Law;

13) it receives parties and issues data from the performed geodetic works outside the headquarters of the sole proprietor- authorized surveyor, that is, the trade company for geodetic works (Article 121 indent 3);

14) it does not sign the geodetic report prepared in writing with its personal signature, and if it does not sign the geodetic report prepared in electronic form with a valid certificate issued by an authorized issuer (Article 110 paragraph (1) indent 2) and

15) it violated the provision of Article 110 paragraph (2) of this Law in respect of the obligation for non-performance of geodetic works by a licensed surveyor not employed by it.

(2) A fine in the amount of 30% of the measured fine for a legal entity, that is, a sole proprietor, shall also be imposed for the misdemeanor referred to in paragraph (1) of this Article on the responsible person in the legal entity, that is, the sole proprietor.

Article 8

In Article 250, paragraph (11) shall be amended and shall read:

“An appeal may be filed against the decision of the misdemeanor commission to the State Commission for Decisions in the Second Instance in the field of inspection supervision and misdemeanor procedure.”

A new paragraph (12) shall be added after paragraph (11) that shall read:

“(12) A misdemeanor procedure cannot be initiated for the misdemeanors stipulated in this Law, nor can a misdemeanor procedure be conducted if two years have passed from the day when the misdemeanor was committed.”

Article 9

In Article 251, paragraph (1) shall be amended and shall read:

“When the authorized official within the Agency determines that a misdemeanor stipulated in this Law has been committed, he shall draft a minutes in which he shall state the important elements of the activity from which the legal mark of the misdemeanor arises, the time, place and

the manner in which the misdemeanor has been committed, the description of the activity, as well as the persons found on the spot, after which he shall submit a request for initiation of a misdemeanor procedure before the Misdemeanor Commission.”

Paragraph (2) shall be amended and shall read:

“Prior to the submission of a request for initiation of a misdemeanor procedure for the misdemeanors stipulated in this Law, the authorized official shall be obliged to propose to the perpetrator of the misdemeanor a settlement procedure by issuing a misdemeanor payment order.”

In paragraph (4) the word “misdemeanor” shall be added after the word “issue”, and in the second sentence, the word “payment” shall be replaced with the words: “misdemeanor payment”.

In paragraph (5) the word “payment” shall be replaced with the words: “misdemeanor payment”.

Article 10

Two new Articles 251-a and 251-b shall be added after Article 251, which shall read:

“Article 251-a

(1) The authorized officials within the Agency shall be obliged to keep records of the issued misdemeanor payment orders and of the outcome of the initiated procedures.

(2) The following data shall be collected, processed and kept in the records referred to in paragraph (1) of this Article: name and surname, that is, name of the perpetrator of the misdemeanor, dwelling, that is, place of residence, headquarters, type of the misdemeanor, number of the issued misdemeanor payment order and the outcome of the procedure.

(3) The personal data referred to in paragraph (2) of this Article shall be kept for a period of five years from the date of their entry into the records.

(4) The form and content of the misdemeanor payment order shall be prescribed by the Management Board of the Agency.

Article 251-b

The determination of the amount of the fines imposed on the legal entity, that is, the sole proprietor, prescribed by this Law, shall be made in accordance with the Law on Misdemeanors.”

Article 11

The by-law stipulated by this Law shall be adopted no later than 30 days from the date of the entry into force of this Law.

Article 12

The Legislative Commission of the Assembly of the Republic of Macedonia shall be authorized to determine a consolidated text of the Law on Real Estate Cadastre.

Article 13

The provisions of Article 174-a determined in Article 2 of this Law shall start to apply from January 1, 2016.

Article 14

This Law shall enter into force on the date of its publication in the “Official Gazette of the Republic of Macedonia”.