

THE DRAFT LAW ON THE URBAN LEASE IN PROCESS OF BEING ENACTED

As part of the National Programme of Urban Development and Housing, the Draft Law on the Urban Lease was approved by the National Assembly on 12 August 2015.

In the context of the National Programme of Urban Development and Housing, the Draft Law on the Urban Lease (“*Proposta de Lei do Arrendamento Urbano*” – “LAU”) was approved by the National Assembly on 12 August 2015. This new law seeks to increase the range of alternatives for the access to housing and to increase and diversify the supply.

LAU has been subject to a vote in the National Assembly and should enter into force on the date of its publication in the Official Gazette. The statute should apply to all lease agreements executed after the above effective date. However, lease agreements executed before the LAU’s entry into force shall also be subject to the LAU’s new rule regarding the obligation to fix the rents in the Angolan currency (Kwanza). LAU will revoke the following statutes: (i) the Tenancy Law (“*Lei do Inquilinato*”), approved by Decree no. 43 525 of 7 March 1961 (except the regime of the evaluation commissions which shall remain in force until the approval of the respective regulations); (ii) articles 1083 to 1120 of the Civil Code; (iii) articles 964 to 997 of the Code of Civil Procedure; and (iv) any other provisions diverging from the new law. Any matters not regulated in the LAU shall be governed by the provisions of the Civil Code and any other applicable legislation, duly adapted to the case.

The most significant changes and innovations introduced by the LAU are the following:

- (i) definition of the mandatory content and annexes of the lease agreements;
- (ii) obligation to obtain an Habitability Certificate of the leased property;
- (iii) obligation to fix the rents in the Angolan currency (Kwanza);
- (iv) obligation to pay the rents due until the returning of the leased property to the landlord;
- (v) reduction of the amount to be paid as compensation in case of late payment of the rent by the tenant;
- (vi) possibility to pay rents in advance up to an amount corresponding to six months of rents;
- (vii) establishment of the regime on updating of the rents;
- (viii) regulation of the transfer of lease agreements in case of death of the tenants;

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- (ix) regulation of the pre-emptive right of the tenant and the landlord;
- (x) granting of a right of representation to tenants' associations;
- (xi) rules on works; and
- (xii) establishment of the new regime applicable to termination of lease agreements. In particular, the landlord's right to oppose to the renewal of limited-term agreements; the tenant's right to terminate limited-term agreements at any time; and the right to a new lease agreement.

In regards to the regime on leases for residential purposes, we highlight the possibility of establishing one of the following rent regimes: (i) free rent regime, in which the initial rent and its annual update are established by negotiation between the parties; (ii) conditional rent regime, under which the initial rent of the first or the new leases is the result of free negotiation between the parties (however, the monthly rent shall not exceed one twelfth of the amount arising from the application of the conditional rents rates to the value of the property updated in the year of execution of the lease agreement, which shall correspond to the real value of the property fixed by the evaluation commissions); and finally, (iii) the supported rent regime, under which the amount of the rents is subsidized according to specific rules regarding the determination and update of this type of rents.

It is worth to mention the possibility of concluding "Limited-Term Agreements" in which case it is possible to stipulate an effective term. However, the effective term shall not be less than five years.

Several amendments have been introduced to the legal framework of the commercial or industrial leases, notably the following: (i) reduction of the maximum amount of compensation to be paid to the tenant upon termination of the lease by the landlord to the amount corresponding to twice the annual rent; (ii) the execution of the transfer of the commercial exploitation of business premises shall be subject to written document otherwise the same shall be deemed null and void (whereas the transfer of business as a going concern remains subject to public deed); and (iii) the granting to the landlord of a pre-emption right in the case of transfer of business as a going concern emerging from a sale or a transfer in lieu of payment.

This Newsletter is intended to merely highlight the changes and innovations deemed at this stage as the most relevant. Thus, we do not pretend to address all the changes introduced by the LAU. This Newsletter was prepared on the basis of the draft statute that has been subject to the National Assembly's vote. Therefore, this Newsletter will be updated in accordance with the version that should be published in the near future in the Official Gazette.

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