

Comparative Table of Proposals of the Temporary Special Commission of the Verkhovna Rada of Ukraine on the Protection of Property and Non-property Rights of Internally Displaced Persons and Other Persons Affected by the Armed Aggression of the Russian Federation against Ukraine to the draft Law of Ukraine No. 11440 "On Amendments to the Law of Ukraine "On State Registration of Real Property Rights and Encumbrances" to ensure the mechanism of state registration of ownership of real property in the absence of access to the materials of the technical inventory bureau" (for the second reading)

Current version of the Law of Ukraine "On State Registration of Real Property Rights and Encumbrances"	The version of the draft law No. 11440 adopted in the first reading	The version of the Draft Law No. 11440 proposed to be adopted in the second reading	Commentary
<p>Article 2: Definition of terms</p> <p>1. In this Law, the following terms are used in the following meanings:</p> <p>...</p> <p>10) offsite inspection - an inspection carried out at the premises of the Ministry of Justice of Ukraine solely on the basis of data from the State Register of Rights.</p> <p><i>No provision</i></p>	<p>Article 2: Definition of terms</p> <p>1. In this Law, the terms are used in the following meanings:</p> <p>...</p> <p>10) offsite inspection - an inspection carried out at the premises of the Ministry of Justice of Ukraine solely on the basis of data from the State Register of Rights.</p> <p><i>No provision</i></p>	<p>Article 2: Definition of terms</p> <p>1. In this Law, the terms are used in the following meanings:</p> <p>...</p> <p>10) offsite inspection - an inspection carried out at the premises of the Ministry of Justice of Ukraine solely on the basis of data from the State Register of Rights;</p> <p>11) registry book - a document containing information on state registration of ownership of immovable property held by the technical inventory bureau, entries in which were made before the introduction of the State Register of Rights to Immovable Property</p>	<p>Paragraph 1 of the comments of the Main Scientific and Expert Department of the Verkhovna Rada of Ukraine Apparatus is taken into account, where it was noted that "it is unclear from the content of the proposed provision what is meant by the term "register books", since the current version of the Law does not use this term".</p> <p><u>The proposed wording was developed as an option to reconcile amendments 1 and 2.</u></p>
<p>Article 10. State registrar</p> <p>...</p> <p>3. State registrar:</p> <p>...</p>	<p>Article 10. State registrar</p> <p>...</p> <p>3. State registrar:</p> <p>...</p>		
<p>3) during the state registration of rights that arose in accordance with the procedure established by law before 1 January 2013, as well as during the</p>	<p>3) during state registration of property rights, which are registered by technical inventory bureau enterprises through the maintenance of register</p>	<p>3) during the state registration of rights that arose in accordance with the procedure established by law before 1 January 2013, as well as</p>	<p>Until 1 January 2013, information on property rights was not only contained in registry books, and it was not</p>

<p>state registration of rights acquired from rights that arose in accordance with the procedure established by law before 1 January 2013, shall request from the authorities, enterprises, institutions and organisations that, in accordance with the law, carried out the formalisation and/or registration of rights, the information (certificates, copies of documents certified in accordance with the procedure established by law, etc.) necessary for such registration, in the absence of access to the relevant information carriers containing the information necessary for state registration of rights, <i>or in the absence of the necessary information in the unified and state registers, access to which is determined by this Law, and/or if the relevant documents were not submitted by the applicant, except in cases where state registration of rights is carried out in connection with the performance of a notarial act and such documents were provided in connection with the performance of such an act.</i></p>	<p>books, as well as during state registration of rights, the acquisition, change or termination of which occurs from property rights, which have been registered by technical inventory bureau enterprises through the maintenance of register books and which have not been registered in the State Register of Rights, shall request from technical inventory bureau enterprises, enterprises, institutions, organisations or local self-government bodies to which the register books of technical inventory bureau enterprises have been transferred, information on property rights, entries on which are made in the register books.</p>	<p>during the state registration of rights acquired from rights that arose in accordance with the procedure established by law before 1 January 2013, and which have not been registered in the State Register of Rights, shall request from state authorities, local self-government bodies, enterprises, institutions and organisations which, in accordance with the law, have formalised and/or registered rights or to which the relevant materials have been transferred, the information (certificates, copies of documents certified in accordance with the procedure established by law, etc.) necessary for such registration.</p>	<p>only the Technical Inventory Bureau that registered/formalised property rights (for example, before Ukraine gained independence, this could have been done by councils of people's commissars or other bodies). Therefore, the current version of paragraph 3 covers all possible situations, unlike the proposed version.</p> <p>That is, at present, in addition to requests to the Technical Inventory Bureau regarding the documents issued by them, the state registrar must also request other bodies regarding the documents issued by them. In particular, this refers to a document such as 'an extract from the farm book provided by the executive body of the village council (if such a body has not been established, then by the village head), settlement council, city council or the relevant archival institution' (clause 1, part 1, Article 31 of the Law). Failure to take this circumstance into account may adversely affect the protection of the rights of owners of real estate objects, the ownership of which is confirmed by the aforementioned documents.</p>
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<p><i>No provision</i></p>	<p>The requirements specified in the first paragraph of this clause shall not apply in the following cases</p> <p>information on ownership rights, entries of which are made in the register books, are contained in the Register of Ownership Rights to Immovable Property;</p> <p>the register books containing entries on ownership rights are kept directly by the subject of state registration of rights with whom the state registrar conducting state registration of rights is in an employment relationship;</p> <p>information on property rights, entries of which are made in the registry books, is received by applicants from enterprises, institutions, organisations or local self-government bodies to which the registry books of enterprises of the technical inventory bureau have been transferred and submitted for state registration of rights;</p> <p>state registration of rights is carried out in connection with notarial acts and information on property rights, entries of which are entered in the register books, is received from enterprises, institutions, organisations or local self-government bodies to which the register</p>	<p>The requirements specified in the first paragraph of this clause shall not apply in one of the following circumstances:</p> <p>the information necessary for registration of rights is contained in the Register of Ownership Rights to Immovable Property;</p> <p>the materials containing the information necessary for registration of rights are directly held by the subject of state registration of rights with whom the state registrar conducting state registration of rights is in an employment relationship;</p> <p>the materials necessary for registration of rights have been received by the applicants and submitted for state registration of rights;</p> <p>state registration of rights is carried out in connection with the performance of notarial acts and the materials necessary for registration of rights provided in connection with such an act;</p>	<p>The version adopted in the 1st reading is formulated in such a way that the above circumstances apply cumulatively.</p> <p><u>It is proposed to clarify that the requirements do not apply in the event of one of the above circumstances.</u></p> <p><u>It is also proposed to take into account amendments 13-16</u></p>

	<p>books of enterprises of the technical inventory bureau are transferred, received and used during such an act;</p> <p>state registration of property rights is carried out in accordance with Article 31-9 of this Law.</p>	<p>state registration of property rights shall be carried out in accordance with clause 2 of Section VIII of this Law.</p>	<p>As the provision of Art. 31-9 is of a temporary nature, it is proposed to move it to Section VIII (see comment below)</p>
<p>Public authorities, enterprises, institutions and organisations are obliged to provide the requested information in paper and (if possible) in electronic form free of charge within three business days from the date of receipt of the relevant request of the state registrar. Persons guilty of violating the deadline for providing information at the request of the state registrar bear administrative responsibility;</p>	<p>Enterprises of the technical inventory bureau, enterprises, institutions, organisations or local self-government bodies to which the register books of enterprises of the technical inventory bureau have been transferred, are obliged to provide the requested information in paper and (if possible) in electronic form free of charge within three business days from the date of receipt of the relevant request of the state registrar. Persons guilty of violating the deadline for providing information at the request of the state registrar bear administrative responsibility.</p>	<p>State authorities, local self-government bodies, enterprises, institutions and organisations are obliged to provide the requested information in paper and (if possible) in electronic form free of charge within three working days of receiving the relevant request from the state registrar. Persons guilty of violating the deadline for providing information at the request of the state registrar shall bear administrative responsibility.</p> <p>The requirements for submitting requests for information specified in the first paragraph of this clause and responses to them shall be approved by the central executive authority that formulates and implements state policy in the field of state registration of real rights to immovable property and encumbrances thereon.</p>	<p>Editorial amendment</p> <p><u>It is proposed to take into account the amendment 19.</u></p> <p>It is proposed to unify the documents, which will speed up their preparation, processing and simplify the generalisation and transfer of information from them</p> <p><u>It is proposed to adopt amendment 21, which "covers" amendments 10, 11, 22. However, unlike the above amendments, amendment 21 concerns the unification of not only the request form but also the response form, which will simplify the processes and generalisation of information.</u></p>

<p>Article 24. Denial of state registration of rights</p> <p>...</p> <p>4. Denial of state registration of rights on the grounds referred to in <u>paragraph 6</u> of part one of this Article shall not apply in the case of:</p> <p>...</p> <p>3) state registration of ownership of immovable property acquired as a result of its forced sale in accordance with the Law of Ukraine "On Enforcement Proceedings" or sale of the debtor's property in accordance with the Bankruptcy Code of Ukraine;</p> <p>...</p> <p>7) state registration of ownership of real estate, an object of unfinished construction, a future real estate object by a mortgagee - a financial institution in accordance with the procedure provided for in Articles 33-38 of the Law of Ukraine "On Mortgage", provided that other encumbrances (except for the prohibition of alienation imposed in accordance with the Law of Ukraine "On Compensation for Damage and Destruction of Certain Categories of Real Estate Objects as a Result of Hostilities, Terrorist Acts, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine and the State Register of Property Damaged and Destroyed as a Result of Hostilities, Terrorist Acts, Sabotage Caused by the Armed</p>	<p><i>No changes have been made</i></p>	<p>Article 24. Denial of state registration of rights</p> <p>...</p> <p>4. Denial of state registration of rights on the grounds referred to in <u>paragraph 6</u> of part one of this Article shall not apply in the case of:</p> <p>...</p> <p>3) state registration of ownership of immovable property acquired as a result of its enforcement in accordance with the Law of Ukraine "On Enforcement Proceedings" or sale of the debtor's property in accordance with the Bankruptcy Code of Ukraine, except in cases where the encumbrance is registered in accordance with <u>subparagraph 2.2 of paragraph 2 of Section VIII of this Law</u>;</p> <p>...</p> <p>7) state registration of ownership of immovable property, an object of unfinished construction, a future object of real estate by a mortgagee - a financial institution in accordance with the procedure provided for in Articles 33-38 of the Law of Ukraine "On Mortgage", provided that other encumbrances (except for the prohibition of alienation imposed in accordance with the Law of Ukraine "On Compensation for Damage and Destruction of Certain Categories of Real Estate Objects as a Result of Hostilities, Terrorist Acts, Sabotage</p>	<p>The suggestions of the Notary Chamber of Ukraine (p.9) are also taken into account, since the provision proposed in Article 31-9 is of a temporary nature and is proposed to be moved to Section VIII (see comment below)</p>
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<p>Aggression of the Russian Federation against Ukraine") on the mortgaged property are registered after the state registration of the mortgage;</p> <p>...</p> <p>No provision</p>		<p>Caused by the Armed Aggression of the Russian Federation against Ukraine and the State Register of Property Damaged and Destroyed as a Result of Hostilities, Terrorist Acts, Sabotage Caused by the Armed Aggression of the Russian Federation against Ukraine") on the mortgaged property is registered after the state registration of the mortgage, except in cases where the encumbrance is registered in accordance with <u>sub-clause 2.2 of clause 2 of Section VIII of this Law</u>;</p> <p>...</p> <p>21) state registration of termination of ownership of a completed construction object or a construction object in connection with its destruction.</p>	<p>The suggestion of the Notary Chamber of Ukraine (p. 9) is also taken into account, since the provision proposed in Art. 31-9 is of a temporary nature and is proposed to be moved to Section VIII (see commentary below)</p> <p>The proposed amendments are aimed at preventing state registrars from refusing to register the termination of ownership of real estate due to its destruction on formal grounds, related to the existence of encumbrances on such real estate.</p> <p>The comments of the Notary Chamber of Ukraine (hereinafter - the NCU) have been taken into account (clauses 4 and 9)</p>
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			<u>It is proposed to amend Article 24 as well.</u>
<p>Article 27: Grounds for state registration of rights</p> <p>...</p> <p>2. State registration of encumbrances is carried out on the basis of:</p> <p>...</p> <p>6) a law that prohibits the use and/or disposal of immovable property, an object of unfinished construction, a future object of real estate;</p> <p>7) other acts of public authorities and officials in accordance with the law.</p>	<i>No changes were made</i>	<p>Article 27: Grounds for state registration of rights</p> <p>...</p> <p>2. State registration of encumbrances is carried out on the basis of:</p> <p>...</p> <p>6) a law that prohibits the use and/or disposal of immovable property, an object of unfinished construction, a future object of real estate;</p> <p><u>6¹⁾of sub-clause 2.2 of clause 2 of Section VIII of this Law;</u></p> <p>7) other acts of state authorities and officials in accordance with the law.</p>	<p>The proposal of the draft law on simultaneous state registration of encumbrance and ownership does not take into account the fact that state registration of encumbrance of immovable property requires proper legal grounds. Such grounds are defined in part 2 of Article 27 of the Law. However, the draft law did not provide for the relevant amendments.</p> <p><u>The amendment takes into account the comments of the Main Scientific and Expert Department of the Verkhovna Rada of Ukraine (clause 2) and the comments of the Notary Chamber of Ukraine (clause 4).</u></p> <p><u>Since the provision proposed in Art. 31-9 is of a temporary nature, it is proposed to move it to Section VIII (see comment below)</u></p>
<i>No article</i>	Article 31-9. Peculiarities of state registration of property rights registered by enterprises of technical inventory bureaus by keeping register books, in the absence of such register books due to their destruction or storage in the territories of active hostilities or in the	<p>Section VIII FINAL AND TRANSITIONAL PROVISIONS</p> <p>2. Peculiarities of state registration of property rights that arose in accordance with the procedure established by law before 1 January 2013 and whose state</p>	<p><u>Since the provision is temporary (related to the period of armed aggression, hostilities, temporary occupation and the period of martial law), it is proposed to move it to Section VIII, which will correspond to the third paragraph of subpara.</u></p>

	territories of Ukraine temporarily occupied by the Russian Federation	registration was not carried out in the State Register of Rights, in the absence of register books, due to their destruction or storage in the territories of active hostilities or in the territories of Ukraine temporarily occupied by the Russian Federation	3 subpara. 2.1, item 2 of the <u>Rules for Drafting Laws and Basic Requirements of Legislative Technique (Methodological Recommendations)</u> (see https://zakon.rada.gov.ua/rada/show/n0002451-06#Text)
	<p>1. State registration of property rights, which were registered by enterprises of technical inventory bureaus by keeping register books and information about which is not entered in the Register of Real Estate Ownership Rights, is carried out</p> <p>1) in the presence of a document provided for in Article 27 of this Law, which contains a registration inscription or an integral part of which is a registration certificate confirming the registration of ownership by the enterprise of the technical inventory bureau by making an entry in the register book;</p> <p>no provision</p>	<p>2.1. State registration of property rights, which were registered by the technical inventory bureau by maintaining register books and information about which was not entered into the Register of Ownership Rights to Immovable Property, is carried out in the presence of the following mandatory conditions</p> <p>1) availability of the document provided for in Article 27 of this Law, which contains a registration inscription or an integral part of which is a registration certificate confirming the registration of ownership by the technical inventory bureau by making an entry in the register book;</p> <p>2) the applicant's statement confirming the validity of the submitted document referred to in sub-clause 1 of this sub-clause, and that as of the date of application there was no alienation, mortgage or other encumbrance of the real estate object (part thereof) that is the subject of the application;</p>	<p>The editorial amendment is in line with the statement in the explanatory note to the draft law that the two conditions are simultaneously mandatory.</p> <p>The proposal of the NCU (clause 1) regarding the inappropriateness of using the word "enterprises" is also taken into account, since in certain periods the technical inventory bureaus were attached to executive committees</p> <p>The addition of a new sub-clause 2 is related to the proposal of the NCU (clause 3), which is that "in order to in order to strengthen the applicant's responsibility and for possible refund of compensation, in case of submission of an irrelevant or</p>

	<p>2) provided that the administrative territorial unit at the location of the immovable property is included in the List of territories where there is no access to the register books of the enterprises of the technical inventory bureau or such books have been destroyed, approved by the central executive body that ensures the formation and implementation of state policy in the field of restoration of regions, territories and infrastructure affected by the armed aggression of the Russian Federation against Ukraine.</p>	<p>3) the administrative-territorial unit at the location of the immovable property is included in the List of territories where there is no access to the register books of the technical inventory bureau or such books have been destroyed, approved by the central executive body that ensures the formation and implementation of state policy in the field of state registration of real rights to immovable property and their encumbrances.</p>	<p>forged document, to consider adding to the list of documents on the basis of which the state registration of property rights is carried out, the applicant's statement confirming the validity of the document, the fact that he/she owns the real estate object or a share in the ownership right to it, that it has not been alienated, mortgaged or encumbered.</p> <p>It is proposed to change the Central executive authorities that approves the List of territories due to the fact that according to clause one of the Regulation on the Ministry of Justice of Ukraine, approved by the CMU Resolution No. 228 dated 02.07.2014, the Ministry of Justice is the main body in the system of central executive authorities that ensures the formation and implementation of state policy, in particular, in the field of state registration of rights to real estate and their encumbrances and therefore has the most complete information on the availability or lack of access to the relevant data.</p>
	<p>2. At the same time as the state registration of property rights in accordance with the procedure provided</p>	<p>2.2. Simultaneously with the state registration of property rights without submitting a separate application in</p>	<p>Amendment 34, as well as the comments of the NCU (p.5) have been taken into account.</p>

	<p>for in this Article, the state registration of encumbrance of such rights for the period of martial law and within one year from the date of its termination or cancellation shall be carried out.</p>	<p>accordance with the procedure provided for in this clause, the state registration of encumbrance of such right for the period of martial law in Ukraine introduced by the Decree of the President of Ukraine "On the Introduction of Martial Law in Ukraine" dated 24 February 2022 No. 64/2022, approved by the Law of Ukraine "On Approval of the Decree of the President of Ukraine "On the Introduction of Martial Law in Ukraine" dated 24 February 2022 No. 2102-IX, and within one year from the date of its termination or cancellation, shall be carried out.</p>	
	<p>3. During the term of the encumbrance provided for in part two of this article, the owner is prohibited from performing any transactions with respect to the real property (except for the state registration of the termination of ownership in connection with the destruction of the property) and is prohibited from foreclosing on such real property on any grounds, including in a compulsory manner. In case of state registration of transfer of ownership by inheritance, such encumbrance shall not be terminated.</p>	<p>2.3. During the term of the encumbrance provided for in part two of this Article, the owner is prohibited from performing any transactions on alienation, transfer to trust as a means of securing fulfilment of an obligation and/or encumbrance of real rights to an immovable property object and is prohibited from foreclosing on such immovable property on any grounds, including by compulsion.</p> <p>At the same time, state registration of termination of ownership in connection with the destruction of property or personal disposition of real estate in the event of death by means of a will is not prohibited.</p>	<p>Amendment 36 has been taken into account.</p> <p>A provision on the making of a will and on the destruction of property has been added, taking into account the NCU's comments (clause 7 and part of clause 8)</p>

	<p>4. The encumbrance provided for in part two of this article may be terminated before the expiry of the period provided for in part two of this article, on the basis of a court decision establishing the ownership of the immovable property by such owner, or in the event of the exclusion of the administrative-territorial unit at the location of the immovable property from the List of territories where there is no access to the register books of enterprises of the technical inventory bureau or such books have been destroyed. State registration of the termination of the encumbrance in the event of the exclusion of the administrative-territorial unit at the location of the immovable property from the List of territories where there is no access to the register books of enterprises of the technical inventory bureau or such books have been destroyed, shall be carried out subject to the receipt of information on the right of ownership, which is recorded in the register, from the technical inventory bureau or another entity specified in paragraph 3 of part three of Article 10 of this Law, confirming the right of ownership, including that of the testator, whose state registration was carried out in accordance with this article.</p>	<p>2.4. The encumbrance provided for in part two of this article may be terminated before the expiry of the period provided for in part two of this article, on the basis of a court decision establishing the ownership of the immovable property by such owner, or in the event of the exclusion of the administrative-territorial unit at the location of the immovable property from the List of territories where there is no access to the register books of the technical inventory bureau or such books have been destroyed. State registration of the termination of the encumbrance in the event of the exclusion of the administrative-territorial unit at the location of the immovable property from the List of territories where there is no access to the register books of the technical inventory bureau or such books have been destroyed, is carried out subject to the receipt of information on the right of ownership, which is recorded in the register, from the technical inventory bureau or other entity specified in paragraph 3 of part three of Article 10 of this Law, confirming the right of ownership, including that of the testator, whose state registration was carried out in accordance with this article.</p>	
	<p>5. The state registration of termination of the encumbrance provided for in part two of this Article</p>	<p>2.5. The state registration of termination of the encumbrance provided for in part two of this Article</p>	

	<p>in connection with the expiration of the one-year period from the date of termination or cancellation of martial law shall be carried out in accordance with the procedure provided for by this Law, upon the applicant's request-</p>	<p>in connection with the expiration of a one-year period from the date of termination or cancellation of martial law introduced by the Decree of the President of Ukraine "On the Introduction of Martial Law in Ukraine" dated 24 February 2022 No. 64/2022, approved by the Law of Ukraine "On Approval of the Decree of the President of Ukraine "On the Introduction of Martial Law in Ukraine" dated 24 February 2022 No. 2102-IX, shall be carried out in accordance with the procedure provided for by this Law, at the request of the owner.</p>	<p>The editorial amendment is similar to the proposal included in clause 2.2, which was in amendment 34.</p> <p>Comments of the NCU (p.10) are taken into account</p>
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