



Polska Izba Nieruchomości Komercyjnych

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# **Legal flash**

changes in Polish regulations in RE



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# 01 DIGITIZATION OF THE CONSTRUCTION PROCESS

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The process of digitization of formalities related to the construction process, which commenced in 2021, is advancing. Starting from 1 July 2021, the following documents can be submitted via the government portal [e-budownictwo.gunb.gov.pl](https://e-budownictwo.gunb.gov.pl) launched by the General Office of Construction Supervision in March this year:

- an application for a building permit, accompanied by a plot or land development project and an architectural and construction project;
- an application for a separate decision on approval of the plot or land development project;
- an application for a decision to change the building permit;
- an application for a permit to build a temporary building;
- an application for a simplified legalization;
- notification of completion of construction;
- notification of completion of construction of a single-family house;
- application for an occupancy permit;
- application for occupancy permit - before completion of construction.

From 5 July 2021, through the portal, it is also possible to report:

- construction or building works with a plot or land development project and an architectural and construction project.

In order to send documents, it is necessary to fill in an online application on the portal, attach the required attachments, log in to the ePUAP service via a trusted profile or e-ID and sign the general letter together with the attachments, which will then be sent to the respective office. Importantly,

filing applications and notifications in a paper form is also possible. Online filing of applications and notifications is still optional.

In connection with the possibility to send an application for a construction permit via the Internet, the form and scope of the construction project have changed. Designers may prepare a project in the form of a PDF file, and investors or plenipotentiaries may attach a project signed with a qualified electronic signature, trusted profile or via e-ID to online applications.

The next announced stages of digitalization of the construction process are implementation of the Electronic Construction Log and then the Electronic Object Book. The introduced changes should contribute to faster project implementation, streamline the circulation of documentation and prevent situations in which submitting an application involved delivering boxes of documents to the relevant office. Online submission of applications and notifications is also a definitely more environmentally friendly solution.

## 02 RELIEFS AND REDUCTIONS IN BENEFITS IN THE COMMERCIAL SECTOR IN CONNECTION WITH THE COVID LAW

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**On 23 July 2021**, an amendment to the Act on Special Arrangements for Preventing, Countering and Combating COVID-19, Other Infectious Diseases and Emergencies Caused by Them ("**COVID-19 Act**") entered into force. Pursuant to this amendment, Article 15ze of the COVID-19 Act was repealed, pursuant to which, during the business prohibition period in commercial facilities, mutual obligations of the parties under lease agreements, rental agreements or other similar agreements by which commercial premises are made available for use ("Agreements") were temporarily lifted, provided that an appropriate offer to extend the duration of the Agreement was submitted by the entitled entity within an

appropriate time period. Due to the amendment, such an offer can no longer be made.

The newly introduced provision is applicable to Agreements concluded before 14 March 2020. Pursuant to it - Article 15ze1 of the COVID-19 Act, the payments of an eligible entity for the use of commercial space due to the provider under the Agreements during the period of the business prohibition in commercial facilities with a sales area of more than 2,000 sq. m shall be reduced:

- up to 20% of the amount of such payments due to the provider under the contract,
- up to 50% of the amount of such payments due to the provider under the contract, within three months of the date on which each prohibition is lifted.

Concurrently with the above, a provision has been introduced under which each of the parties to the Agreements, if the reduction of payments would not be justified in the light of Article 3571 of the Civil Code, may request the court to determine the amount of the reduction of payments due to the provider (Article 15ze1, paragraph 2). The court will be able, after weighing the interests of the parties, in accordance with the principles of social co-existence, in a manner varying from the regulations of the COVID-19 Act, to determine the amount of the reduction of payments, the performance thereof or to change the time period during which the provider is entitled to payments in the reduced amount.

The aforementioned amendment was intended to support entrepreneurs who found themselves in a very challenging situation due to the new restrictions imposed due to COVID-19 by facilitating the process of reduction of the amount of payments due in the event of a subsequent business prohibition. By virtue of the law, there will be a reduction in the amount of due payments during a business prohibition of up to 20% of the amount of such payments and up to 50% of the amount of such payments within three months of the date on which each prohibition is lifted. The regulation does not apply to previous periods of business prohibition in commercial facilities.

Despite the initial intention of the legislator, arising from the need to simplify the provisions, interpretative doubts have arisen in connection with the amendment as to the scope of the notion of reduction of the payments due to the provider. In the first variant, it is indicated that the reduction should concern all payments due to the provider, including rent and the amount of service charges. In the second option, the said reduction of payments should apply only to rental payments, excluding service charges.

In the absence of additional provisions or clarifications, until the above issues are amended and standardized, it is up to the parties under the Agreements to determine which of the interpretations introduced by the amendment will operate between them.

## 03 SALE OF REAL ESTATE IN EXECUTION PROCEEDINGS BY ONLINE AUCTION

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**On 3 July 2021**, an amendment to the Code of Civil Procedure came into force, which introduced the possibility of conducting an online auction for execution from real estate. The sale of real estate by online auction is conducted at the request of the creditor and is carried out via an ICT system. The condition of participation in a tender performed in this form is the creation of an individual account in an ICT system.

## 04 DEVELOPER GUARANTEE FUND

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**On 31 July 2021**, part of the provisions of the new Act on the Protection of the Rights of the Purchaser of a Dwelling or Single-Family House and the Developer Guarantee Fund came into force, regulating the creation of the Developer Guarantee Fund. This fund constitutes a separate account in the Insurance Guarantee Fund and the funds collected therein come mainly from mandatory contributions from developers.

The remaining provisions of the Act on the Protection of the Rights of the Purchaser of a Dwelling or Single-Family House and the Developer Guarantee Fund shall come into force on 1 July 2022, on which date the previously effective Act on the Protection of the Rights of the Purchaser of a Dwelling or Single-Family House of 16 September 2011 shall expire.

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