

Planned Amendments to the Law: Buyer's Responsibility for Apartment Debts – Possible Consequences and Solutions

Current Situation:

Until now, when purchasing an apartment, the new owner was not held responsible for the previous owner's unpaid debts related to received services. However, a new regulation proposed under the Apartment Property Law and the Residential House Management Law aims to change this. It introduces scenarios where the buyer of an apartment could be held accountable for debts incurred before the property was transferred to their ownership.

This involves broadening the legal concept of real burdens to include statutory obligations tied to the apartment. The principle of “the debt follows the apartment” would apply. The Latvian Parliament approved these amendments in the first reading on December 19, 2024, with the deadline for proposals for the second reading set for February 14, 2025.

Key Provisions in the Amendments:

The new regulation specifies that apartment owners will be responsible for debts related to real burdens incurred up to one year prior to the purchase of the property. This rule will only apply to voluntary property transactions when the property is burdened with debts.

The regulation establishes these real burdens by law, making them binding for the new apartment owner without additional registration in the Land Register.

The debts covered by this regulation include:

Management expenses.

Payments for public utility services (such as heating, water supply, sewerage, waste removal, and electricity for shared parts of the residential house).

Contributions to the savings fund.

This means that the buyer of the apartment will assume responsibility for unsettled payments made by the previous owner.

At the same time, the regulation allows parties to agree on who will pay off the debt. If no agreement is made, the buyer must cover the debts but retains the right to a recourse claim against the seller.

Possible Consequences:

This approach could lead to several complications and challenges:

Risk Shift to the Buyer: Buyers would become legally responsible for prior debts, potentially reducing the attractiveness of properties with unpaid debts.

Dishonest Seller Practices: Sellers might deliberately accumulate debts before selling their property, burdening the housing community.

Impact on the Real Estate Market: Financial institutions may increase down payment requirements or impose stricter conditions for loans on such properties, negatively affecting the market.

Market Manipulation: Transactions might be undervalued to account for the debt amount. Consequently, state fees calculated from the transaction value might be lower, reducing state revenue.

Solutions and Recommendations:

To ensure the successful implementation of these amendments, several measures are needed:

Effective Management Oversight: Property managers must provide accurate and verifiable information about debts. Processes should be transparent, ensuring that sellers, buyers, and administrators have access to reliable data supported by sufficient evidence.

Debt Verification Mechanisms: A system should be developed to address disputes over unjustified invoices.

Buyer Protection Systems: While the amendments grant the buyer rights to dispute debts with the rightful creditor, additional measures are necessary to enhance control and trust in the property management process.

Conclusion:

The proposed regulation is a step toward resolving issues related to apartment debts. However, its success depends on thorough analysis and thoughtful implementation. The primary challenge is to balance buyer protection, seller accountability, and fair treatment of property managers. Without proper oversight and mechanisms to ensure transparency and fairness, these amendments could cause more problems than they solve.

