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SUSPENSION OF THE APPLICATION OF CATALAN ACT 24/2015, OF JULY 29, ON URGENT MEASURES TO ADDRESS THE HOUSING AND ENERGY POVERTY EMERGENCY (DOGC no. 6928, of August 5, 2015) DUE TO THE CONSTITUTIONAL APPEAL FILED BY THE STATE GOVERNMENT

On April 29, 2016, the Council of Ministers resolved to file a constitutional appeal against Catalan Act 24/2015, of July 29, on urgent measures to address the housing and energy poverty emergency ("**Act 24/2015**" or the "**Act**"), in view of the failed negotiations of the bilateral Government-*Generalitat of Catalonia* (Catalan Regional Government) committee held last October.

The admission for appeal processing, which was published yesterday on the Constitutional Court website, press release no. 53/2016, temporarily suspends the validity and application of the contested provisions, as the Government made use of powers in articles 161.2 of the Spanish Constitution and 30 of the Organic Law of the Constitutional Court. Suspension will apply from the date the appeal was filed for the process parties -May 5, 2016- and from publication in the Official Gazette of the Spanish State [BOE], expected in the coming days, for third parties.

The purpose of this Act, arising from a popular legislative initiative, was to establish mechanisms aimed at resolving situations of over-indebtedness for individuals and families, particularly with regard to debts arising from the principal residence, as well as situations of energy poverty in the region of Catalonia. Among other measures, the Act established:

1. Mechanisms to resolve situations of consumer over-indebtedness, specifically, an in-court and an out-of-court mechanism.
2. Several measures to prevent evictions that could lead to situations of homelessness for people at risk of residential exclusion, e.g., the obligation to offer social rental housing to (i) home buyers acquired by offsetting or payment in kind of mortgage loans or credits on the principal residence; (ii) home buyers sold as consequence of the inability of the borrower to repay their mortgage loan; (iii) those filing for mortgage foreclosure or eviction for non-payment of rent.
3. Legal entities meeting certain conditions that own empty housing are obliged to assign this housing for three years, including it in the social housing rental fund.
4. The pre-emption right by the debtor of loans secured by the principal residence in cases of assignments for consideration.

The appeal for unconstitutionality is confined to some substantive and procedural measures established in the Act that could lead to doubts about their constitutionality:

1. Articles 2 and 3, regulating the in-court and out-of-court procedures to resolve situations of consumer over-indebtedness.

2. Article 4, referring to the extension to the guarantor of the cancellation of unpaid liability.
3. Article 5, transitory provision two and final provision three, establishing measures to prevent evictions that could lead to homelessness and, specifically, establishing a requirement prior to filing suit for mortgage foreclosure or eviction.
4. Article 7, referring to the obligation of legal entities meeting certain conditions that own empty housing to assign this housing for three years, including it in the social housing rental fund.
5. The Additional Provision envisaging that, in the event of assignment of a loan secured by the principal residence, the debtor can be released from the debt by paying the price paid by the owner plus legal interest and any expenses incurred in the debt claim.

Until the provisional suspension of the Act is lifted by the Constitutional Court (under article 161.2 of the Spanish Constitution, the Constitutional Court must ratify or lift this suspension within five months if it has not previously issued a ruling), the rule has no legal effect. This is particularly significant because, even if the Constitutional Court finally dismisses the appeal of unconstitutionality, it could be argued that the Act would not be applicable to any legal actions and transactions that took place while it was suspended.

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