
Catalan emergency housing act

Act 1/2022 reintroduces and extends the measures adopted under Decree-law 17/2019, declared null by the Spanish Constitutional Court, to improve access to housing.

Legal flash

March 14, 2022



Key aspects

- It extends the concept of “large housing asset holder” (“**Large Holder**”) to companies and corporate groups that own over 10 housing properties.
- The occupation of housing without legal title does not change the situation of noncompliance with the social function of the property.
- It creates the register of Large Holders.
- It extends cases in which compulsory social rent is imposed.
- It empowers the Catalan Housing Agency to lease housing properties on a social rent basis.
- It enables the expropriation of unoccupied housing properties paying half their market value.
- It introduces new infringements and enforcement measures.



Large Holders must offer social rent

Concept of Large Holder in Catalonia

- Act 1/2022 extends the concept of Large Holder to companies and corporate groups that own over 10 housing properties in any part of the Spanish territory.¹
- It also creates an administrative register in which all Large Holders must be entered. These holders must register within one month from the entry into force of Act 1/2022 or from the date the owner becomes a Large Holder.
- Failure to provide the information that must be entered in the register of Large Holders is considered a serious infringement.

Compulsory social rent: situations and system

Act 1/2022 reintroduces and extends the cases provided under [Decree-law 17/2019](#)—declared null by [Constitutional Court judgment 16/2021, of January 28](#)—whereby Large Holders are obliged to put forward a social rent proposal to individuals at risk of housing exclusion before serving an eviction notice and starting an enforcement procedure arising from claims for mortgage debt.

- New situations where Large Holders are obliged to put forward a social rent proposal:
 - Expiration of the rental period or the legal title granting the right to occupy the property.
 - Lack of legal title enabling occupation if the situation has arisen from a mortgage enforcement proceeding filed by the holder.
 - Asset management institutions, venture capital funds and asset-backed securities funds are also obliged to put forward a social rent proposal to occupants without legal title (squatters) as long as the following requirements are met:
 - (a) The housing property is registered or is registrable in the register of empty housing.
 - (b) It can be proved that the occupation without legal title began before June 1, 2021.
 - (c) The occupants have not rejected any social rehousing in the past two years.
 - (d) The social services prove that the occupants are at risk of housing exclusion, and have settled into and have established ties in the neighborhood.

¹ Act 1/2022 does not change the condition of large housing asset owner when the owners of those properties are financial institutions and their real estate subsidiaries, investment funds, asset management institutions, capital venture funds and asset-backed securitization funds; or individuals that own more than 15 housing properties, or co-own these properties if their ownership interest in the condominium is over 1,500 square meters of housing space. These entities will continue to be considered large housing asset holders under the same terms set out before the enactment of the new regulation.



- > The social rent is set at a minimum of five years if the owner is an individual and seven years if it is a legal entity. Beneficiaries of social rent are entitled to a single renewal for the same length of time if, before the rental agreement expires, they can prove they are still at risk of housing exclusion.
- > Finally, Act 1/2022 empowers the Catalan Housing Agency to lease housing properties owned by Large Holders on a social rent basis. In this case, the holder will be entitled to receive an amount equivalent to that applicable to protected housing under the special regime.²

Noncompliance with the social function of the housing property

The causes of nonconformity with the social function of the housing property set out in Decree-law 17/2019 have been reintroduced and extended after being declared null under Constitutional Court Judgment 16/2021.

- > New situations of noncompliance with the social function of the housing property:
 - The property has been vacant without justified cause for over two years. Act 1/2022 provides that occupation without legal title (squatters) and the transfer of the property to a legal entity does not change the situation of noncompliance.
 - The property qualifying as protected housing or that is reserved as such is not used as a habitual and permanent residence of people.
 - Failure to put forward a social rent proposal in cases where it is compulsory to do so.
- > In these cases, the authorities can ask the owner to adopt measures to remedy the situation of noncompliance with the social function of the property.
- > If the owner does not fulfill this requirement, the authorities can impose the following enforcement measures:
 - Coercive fines of up to €1,000 may be imposed for each month the property is vacant up to the limit of 50% of the estimated value of the property.
 - The property may be transferred to the social rented housing fund for up to seven years.
- > Also, failure to use the property for the purpose of housing people is considered a very serious infringement. The regulation clarifies that, if a housing property is transferred and the purchaser is a legal entity, the latter will subrogate in the former owner's noncompliance with the social function of the property.

² Legal entities cannot benefit from this measure if they belong to a corporate group or have a subordination or coordination relationship with investment funds, asset management institutions, venture capital funds or asset-backed securities funds.



- Finally, any anomalous housing situation is regulated so that the authorities are entitled to impose enforcement measures and fines. Anomalous situations include cases where the property has been vacant without justified cause for over two years, and the law applies the same rules in cases where residential buildings remain unfinished when over 80% of construction work was carried out for over two years after the deadline to complete it.

Compulsory expropriation of unoccupied housing and protected housing

- Act 1/2022 regulates compulsory expropriation to tackle situations of noncompliance with the social function of the housing property. Expropriation is applicable when the requirement to use it as a habitual and permanent residence of people is not met.
- This will occur when the property is located in an area with proven high residential demand, and it is registered or is registrable in the register of empty housing.
- Expropriation records will be processed using the emergency procedure. Compensation is set at 50% of the property's market value, the difference of which will be paid by the authorities.

Scope of application and entry into force

- **Scope of application:** Act 1/2022 is applicable throughout the region of Catalonia.
- **Entry into force:** it entered into force on March 8, 2022.

For additional information, please contact our [Knowledge and Innovation Group](#) lawyers or your regular contact person at Cuatrecasas.

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