

REGULATION

From the Ministry of Customs and Trade:

THE REGULATION ON PRE SALE OF RESIDENTIAL UNITS

SECTION ONE

The Purpose, The Scope, The Basis and The Descriptions

The Purpose

CLAUSE 1 – (1) The purpose of this Regulation is to regulate the procedures and the essentials of the applications related to the pre sale of residential units.

The Scope

CLAUSE 2 – (1) This Regulation covers the pre sale of residential units.

The Basis

CLAUSE 3 – (1) This Regulation is prepared based on the clauses 46 and 84 of the November 7th, 2013 dated and 6502 numbered Law on Consumer Protection.

The Descriptions

CLAUSE 4 – (1) In the application of this Regulation;

a) Mortgage agreement: The economically joint agreement of an agreement issuing the credit to finance the purchase of a unit and an exclusive agreement made to purchase the unit.

b) Ministry: The Ministry of the Customs and Trade

c) Secreteriat: Secreteriat of Consumer Protection and Markets Observation

C) Database: Any tool or facility such as short message, email, internet, disc, CD, DVD, memory card that enables to store only for the purpose and in a reasonable time frame to analyze and to allow copying without modification of any information received from or sent to the consumer,

d) Law: Law numbered 6502 on Consumer Protection

e) Unit: A residential unit subject to the law on Flat Ownership dated June 23rd 1965 and numbered 634 or any independent section that is not residential but allocated to the consumer for their use,

f) Unit financing institution: In the context of financing a unit, banks providing direct access to credit for the consumer or performing financial leasing along with financing or financial leasing companies that are deemed appropriate by the Banking Regulation and Supervision Agency,

g) Presale amount: Total payments made by the consumer prior to the delivery of the unit,

G) Presale unit sales contract: A contract in which the consumer commits to payments of the sales price in full or in installments ahead of time, and for developer to commit to transfer or deliver the unit to the consumer upon partial or full payment,

- h) Seller: Including the public authorities for commercial or occupational purposes, the party that offers a commodity to the consumer, or an individual or an entity that acts on behalf of this party,
- i) Consumer: Individual or an entity that acts without commercial or occupational purposes, Is meant.

SECTION TWO

Obligation of Disclosure and Contract

Disclosure

CLAUSE 5 – (1) At least a day before the presale unit sales contract is drafted, a disclosure form that includes the points listed below, in a readable format, in plain language and in font size at least 12, has to be given to the consumer:

- a) Seller’s name, address, phone number, tax id number and other contact details,
 - b) The unit and its independent common area’s basic information such as block, plot, layout, floor etc along with exact gross and net area in accordance with Law dated November 2nd 1985 and numbered 18916,
 - c) Unit’s total sales price if full payment or in installments, taxes included and in Turkish Liras; and if any, detailed information on other delivery expenses,
 - C) If any, interest amount and annual rate of interest that constitutes the interest amount
 - d) Information on consumer’s right of withdrawal and retraction
 - e) Unit’s delivery due date
 - f) Information on securities to be given
 - g) The date of receipt of construction permit
 - G) Information on participation of the common expenses per the management plan,
- (2) In addition to the disclosure form that includes the information listed above, a common area plan, location plan, floor plan and vicinity information will be given to the consumer.
- (3) The information listed in first and second points has to be given to the consumer in writing or via the database.
- (4) In the scope of this clause, it is the obligation of the seller to prove that a disclosure was made.

Form requirement

CLAUSE 6 – (1) The presale unit sales contract will either be done by an agreement accompanied by registration of the freehold title deed at the Deed Office or at the notary public if the sales contract was made in a form of sales commitment agreement. Otherwise, the sales contract will not be valid. The seller can not argue against the consumer on the invalidity of the sales contract at a later date.

(2) The seller, without a valid contract being made, can not request a payment from the consumer or can not ask for any document that could commit the consumer to a debt.

(3) The presale unit sales contract can not be made before the construction permits are granted.

The contract’s mandatory content

CLAUSE 7 – (1) The presale unit sales contract has to include the points listed below, in a readable format, in plain language and in font size at least 12, and a copy has to be given to the consumer:

- a) Seller’s name, address, phone number, tax id number and other contact details,
- b) Consumer’s name, last name, address, phone number and other contact details

- c) Date of the contract
 - C) The unit in question and its independent common area's basic information such as block, plot, layout, floor etc along with exact gross and net area.
 - d) Unit's total sales price, taxes included and in Turkish Liras; and if any, detailed information on other delivery expenses,
 - e) Unit's total sales price if in installments, taxes included and in Turkish Liras; and if any, detailed information on other delivery expenses,
 - f) Interest amount and annual rate of interest that constitutes the interest amount and interest capped by the 30% of the interest rate stated in the contract, for overdue payments,
 - g) Legal ramifications of consumer defaulting,
 - G) Presale amount
 - h) Payment Plan and bank and account information of where the payments should be made
 - i) The information on the terms, duration and methods of exercising the right of withdrawal
 - I) The information on the terms, duration and methods of retraction
 - j) Open address of where to make notifications of retraction or right of withdrawal
 - k) Information on the securities being given,
 - l) The form and the date of the unit's delivery
 - m) Date of the building permit
 - n) Information on the unit's common expenses
 - o) Information on application to the consumer court or consumer judge committee in case of a dispute
- (2) For presale unit sales contracts where the payment is in full, the items (e), (f), (g), (G) and (h) of the first point will not be required.

SECTION THREE

Exercising the Rights of Withdrawal and Retraction

Right of Withdrawal.

CLAUSE 8 – (1) The consumer, within the 14 days of inception date of the sales contract, has a right of withdrawal without a cause and penalty.

(2) It is sufficient to notify the seller within this time frame via notary public that a right of withdrawal is being exercised. In cases where a mortgage was used for a portion of the sales value of the unit, the seller will immediately notify the unit financing institution of the right of withdrawal being exercised.

(3) In cases where the unit was bought with a partial or full mortgage, mortgage agreement will start at the end of the grace period effective as of the date of the sales contract. Unit financing institution, can not demand any payment such as interest, commission, legal obligation etc from the consumer within the grace period.

(4) In cases where a building completion insurance was made for the unit, insurance coverage will kick in at the end of the grace period effective as of the date of the sales contract.

(5) If a right of withdrawal is being exercised, the amount that needs to be reimbursed to the consumer and any document that places the consumer with a debt obligation will be returned to the consumer within 14 days of the receipt of right of withdrawal notification by the seller.

(6) Upon the date of receipt of any amount or document that places the consumer with a debt obligation from the seller, the consumer will return any earnings within 10 days.

(7) The seller is obligated to prove that the consumer is informed about the right of withdrawal.

Retraction

CLAUSE 9 – (1) In presale unit sales, the consumer has a right to retract without a cause up until the transfer or the delivery of the unit.

(2) It is sufficient to notify the seller on retraction via notary public. In cases where a mortgage was used for a portion of the sales value of the unit, the seller will immediately notify the unit financing institution of the right of retraction is being exercised.

(3) In cases of retraction, the seller may demand any legal expenses such as tax, stamp duty etc incurred due to presale of the unit along with an amount up to 2% of the sales value of the unit.

(4) For the situations listed below, an amount can not be demanded from the consumer:

a) The seller's failure to fulfill its obligations or not fulfilling as it should,

b) The death of the consumer,

c) The consumer becoming unable to make the pre payments due to constant deprivation of earning income,

C) In cases where the presale unit sales contract stated prepayments in installments, the retraction due to the seller's refusal of a proposal of a new sales contract in which the delivery date does not exceed due date and stating a new payment schedule and the consumer accepting to pay the difference.

(5) The retraction when the same unit was sold to more than one consumer, the expenses incurred due to presale unit such as tax stamp duty, compensation etc can not be requested from the consumer.

(6) If a retraction right being exercised, the amount that needs to be reimbursed to the consumer and any document that places the consumer with a debt obligation will be returned to the consumer within 90 days of the receipt of retraction notification by the seller.

(7) If a portion of the sales value was paid with a mortgage, the seller will return the payment, deducting the expenses mentioned in clause 3 and the compensation, to the unit financing institution within 90 days of the receipt of retraction notification. The unit financing institution, will return the amount immediately to the consumer in accordance with clause 37 of the law.

(8) Upon the date of receipt of any amount or document that places the consumer with a debt obligation from the seller, the consumer will return any earnings within 10 days.

SECTION FOUR

Seller's Other Obligations

Delivery of the unit

CLAUSE 10 – (1) In presale unit sales, the unit's transfer or delivery date can not exceed 36 months after the date of the sales contract.

(2) In the situation listed below, the unit will be deemed transferred or delivered:

a) Registration to the consumer's name if the unit is subject to freehold title deed,

b) Registration of the transfer of the transitional title deed to the consumer's name at the deed office, in a suitable to reside condition.

The changes in the project

CLAUSE 11 – (1) If there are changes in the project in which the unit belongs after the sales

contract is made, these changes have to be reported to the consumer in writing or via the database. The consumer may not approve the changes and within a month has a right to retract without paying any penalties such as tax, stamp duty, fee, compensation etc. If the change is due to legal obligations or force majeure reasons, the seller may deduct legal expenses such as tax, stamp duty etc and compensation up to 2% of the sales contract value from the consumer.

SECTION FIVE

Facts Regarding the Security

Security

CLAUSE 12 – (1) The seller before starting the presales of units, for projects with 30 or more units has to acquire a building completion insurance or has to have at least one of the securities and conditions listed below:

- a) A bank letter of credit,
- b) Progress payment method,
- c) Security with mortgage,

(2) Other than the securities listed in point one, if a different method that secures all the payments consumers make is proposed, this method can be accepted as a security if the Ministry approves.

Building completion insurance

CLAUSE 13 – (1) The coverage, conditions and the application of the building completion insurance will be determined by the Secretariat of Treasury.

(2) The assets such as compensation, coverage or similar securities within the scope of the building completion insurance can not be included in bankruptcy or liquidation, can not be seized or confiscated or an injunction and cautionary judgement can not be issued.

Bank letter of credit

CLAUSE 14 – (1) The letter of credit is an irrevocable definite letter of credit with unlimited time in which the seller accepts and commits to a payment upon first request from the consumer for the amount that the consumer paid in cases where the obligations listed in clause 10 are not fulfilled.

(2) When a presale unit sales contract is secured with a bank letter of credit, if the seller can not fulfill the obligations listed in clause 10, the consumers can ask to be compensated from the bank with the letter of credit that was given to them.

Progress payment system

CLAUSE 15 – (1) In cases where the consumer's payments are secured with a progress payment system, the consumer is obligated to make the payments to the account of the seller at the bank indicated in the sales contract. The consumer payments accumulated in this account will be blocked up until the transfer or the delivery of the unit, and only then they will be released.

(2) In a progress payment system where the percentage of completion is agreed on, the released portion can only be for payments to be made to the account directly and at a progress rate that is determined by the bank. In such release of funds, the permission of the consumer will not be necessary. For such operations, bank can not request a fee such as commission etc from the consumer.

(3) The seller will lose its rights on the account if it fails to fulfill the obligations indicated in clause 10. In this case, the portion of the consumer payments that are not released to the seller, pursuant to

the progress payment system, will be returned to the consumer by the bank. The rights of the consumer for the payments released to the seller will be reserved.

(4) The bank to control the progress payments may retain services from building inspection firms, advisors or consultants.

Security with mortgage

CLAUSE 16 – (1) If the presale unit is made with a mortgage, the seller is considered to have secured the amount that equals to the credit amount used. However, the amount above the mortgage amount will have to be secured via other means.

SECTION SIX

Miscellaneous and Final Provisions

The regulation that is no longer in effect

CLAUSE 17 – (1) The regulation dated June 13th 2003 and numbered 25137 published in the official gazette on application and methods of sales campaign is no longer in effect.

Effective

CLAUSE 18 – (1) This regulation is in effect as of the date of its publishing.

Execution

CLAUSE 19 – (1) The provisions of this regulation is executed by the Ministry of Customs and Trade.