

99012038234000, 99012038234000

Exercising the municipality's right of first refusal

Heruntergeladen am 07.07.2025

<https://fimportal.de/xzufi-services/112785708/L100027>

| Modul | Sachverhalt |
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| Leistungsschlüssel | 99012038234000, 99012038234000 |
| Leistungsbezeichnung I | Exercising the municipality's right of first refusal |
| Leistungsbezeichnung II | |
| Typisierung | 2/3b - Bund: Regelung, Land: Ausführungsvorschriften, Kommune: Vollzug |
| Quellredaktion | Mecklenburg-Vorpommern |
| Freigabestatus Katalog | unbestimmter Freigabestatus |
| Freigabestatus Bibliothek | unbestimmter Freigabestatus |
| Begriffe im Kontext | |
| Leistungstyp | Leistungsobjekt mit Verrichtung |
| Leistungsgruppierung | Baurecht (012) |
| Verrichtungskennung | Ausübung (234) |
| SDG-Informationsbereich | Kauf und Verkauf von Immobilien, einschließlich aller Bedingungen und Pflichten im Zusammenhang mit der Besteuerung, dem Eigentum oder der Nutzung von Immobilien (auch als Zweitwohnsitz) |

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| Lagen Portalverbund | |
| Einheitlicher Ansprechpartner | Nein |
| Fachlich freigegeben am | 12.09.2024 |
| Fachlich freigegeben durch | Ministry of the Interior, Building and Digitalization Mecklenburg-Western Pomerania |
| Handlungsgrundlage | https://www.gesetze-im-internet.de/bbaug/_24.html https://www.gesetze-im-internet.de/bbaug/_25.html https://www.gesetze-im-internet.de/bbaug/_26.html https://www.gesetze-im-internet.de/bbaug/_27.html https://www.gesetze-im-internet.de/bbaug/_28.html https://www.gesetze-im-internet.de/bbaug/_24.html https://www.gesetze-im-internet.de/bbaug/_25.html https://www.gesetze-im-internet.de/bbaug/_26.html https://www.gesetze-im-internet.de/bbaug/_27.html https://www.gesetze-im-internet.de/bbaug/_28.html |
| Teaser | The municipal right of first refusal enables the municipality to acquire land for urban development purposes in order to influence its future structural and other use. |
| Volltext | <p>Exercising the right of first refusal means that the municipality has the right, subject to certain conditions, to enter into the purchase agreement and subsequently become the owner of the property when purchasing a plot of land in its municipal area. The right of first refusal may only be exercised if this is justified in the public interest.</p> <p>Under certain circumstances, the exercise of the right of first refusal may be excluded or averted by the purchaser.</p> |
| Erforderliche Unterlagen | The seller or buyer must inform the municipality immediately of the content of the purchase agreement so that it can decide whether to exercise the right of first refusal. |
| Voraussetzungen | <p>A plot of land is purchased.</p> <p>The purchase must be notified to the municipality</p> |

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immediately. Without notification, the two-month period granted to the municipality to exercise the right of first refusal does not begin to run.

If the municipality exercises a right of first refusal to which it is entitled and there is no reason for exclusion or if it is not averted, the municipality shall enter into the purchase contract in place of the purchaser; if it exercises the right in favor of a third party, the latter shall enter into the purchase contract.

The municipality or the beneficiary third party must then pay the seller a purchase price that generally corresponds to the agreed purchase price. Under certain conditions, a lower amount can also be paid, for example if the agreed purchase price clearly exceeds the market value at the time of purchase.

Kosten

Costs are incurred by the buyer and / or the seller if they apply to the municipality for a declaration that they waive their right of first refusal.

The determination of the costs and their amount is based on the municipal tax laws of the federal states in conjunction with the administrative fee statutes of the municipality.

Verfahrensablauf

The seller or buyer shall inform the municipality of the content of a purchase agreement.

If there is no pre-emptive right or if the municipality does not exercise it, the municipality must issue a certificate at the request of an interested party (so-called negative notice / certificate).

If, on the other hand, the municipality exercises the pre-emptive right, an independent purchase agreement is newly established between the seller and the municipality. In principle, the same conditions apply (also with regard to the purchase price) that the seller had agreed with the original buyer. However, the purchase price may be limited if the agreed purchase price significantly exceeds the market value in a recognizable manner. In this case, the seller can withdraw from the contract.

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| | The right of first refusal is exercised vis-à-vis the seller; the buyer must be notified of the decision. |
| Bearbeitungsdauer | A processing period is not directly regulated. However, it follows from the deadline for exercising the right of first refusal (see below) that the municipality must act immediately. |
| Frist | The right of first refusal can only be exercised against the seller within two months of notification of the purchase contract. |
| weiterführende Informationen | The municipality is entitled to pre-emption rights by law (general pre-emption rights) and pre-emption rights based on statutes (special pre-emption rights). Both types are on an equal footing. The statutory pre-emption rights serve as instruments under urban development law to secure urban land-use planning. |
| Hinweise | <ul style="list-style-type: none"> • The right of first refusal is excluded in several cases, e.g. in the case of a sale to spouses / relatives / in-laws or if the property is built on and used in accordance with the development plan. • The right of first refusal can also be averted by the buyer, for example if he <ul style="list-style-type: none"> • is in a position to use the property in accordance with the planned purpose within a reasonable period of time and • undertakes to do so within two months of the purchase agreement being notified to the municipality. • The exercise of a right of first refusal in favor of a third party requires that the third party <ul style="list-style-type: none"> • is in a position to use the property for the intended purpose within a reasonable period of time and • undertakes to do so. |
| Rechtsbehelf | |
| Kurztext | When purchasing a property, the municipality of the respective federal state or a beneficiary third party can enter into the purchase agreement under certain conditions. |

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| Ansprechpunkt | Responsible municipality |
| Zuständige Stelle | Responsible municipality |
| Formulare | <p>The right of first refusal must be exercised by means of an administrative act. It is usually issued in writing.</p> <p>No specific form is generally prescribed for an application for the issue of a negative decision/testate; this decision is also regularly issued in writing.</p> |
| Ursprungsportal | Exercising the municipality's right of first refusal, Vorkaufsrecht der Gemeinde ausüben |