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Complex amendments are introduced to the existing Fundamentals of the Legislation on Notarial System

On 18 September 2012 the State Duma of the Russian Federation adopted in the third reading the bill No. 632210-5 "On Amendments to Fundamentals of the Legislation on Notarial System and Certain Legislative Acts of the Russian Federation" (the "Bill"). The Bill aims to govern the issues of creating of Unified Information System of Notariate (UISN).

Complex alterations are suggested by the Bill to the existing Fundamentals of the Legislation on Notarial System, the Federal Law "On Pledge", the Civil Code of the Russian Federation. Pursuant to the Bill, the UISN should represent an automated informational system operated and owned by the Federal Chamber of Notaries Public. The purpose of the UISN is automation processes of gathering and processing of information on notary activities and securing the circulation of such information.

The Bill imposes a new obligation on notaries public – to transmit information to UISN within two working days from the day of corresponding notary act execution. In particular, the following information should be transmitted:

- on certified wills and powers of attorneys and notifications on their cancellation;
- on opened probate cases;
- on certified marriage contract;
- on notifications on pledge of movables.

The specified information will be forming the relevant registers.

According to the Bill, information on pledge of movables should be entered by a notary into the register of notifications on pledge of movables in electronic form in the day of appeal within one hour from the moment of the relevant application. Other information is subject to transmission to UISN within two business days from the day of the notary act execution.

It is allowed to apply before notary for execution of notary act through submitting of notification in electronic form. In such case the electronic qualified signature should be used by applicant. Mortgagee is obligated to send notification on emergence or termination of pledge, as a general rule. When mortgagee was liquidated, information on termination of pledge is sent by mortgagor. In consequence of notification on pledge of movables registration certification should be issued, which may take electronic form with qualified electronic signature of notary.

The Bill provides that the purchaser who had no knowledge and no opportunity to know that the acquired property is pledged should be regarded as bona fide purchaser in cases when the information on pledge (or any alterations to pledge) has not been entered into the register of pledge of movables as at the time of purchase. The right of subsequent pledge registered in the register prevails over the right of [primary] pledge which was not entered into the register. In case when the information on all pledges is entered into

the register in relation to certain particular property, priority queue of claims satisfaction for all subsequent mortgagees will be determined basing on date of sending of relevant notifications from such mortgagees.

The Bill imposes the obligation on the Federal Chamber of Notaries to provide free access to the information contained in the register for general public through the Internet. It also provides for the possibility of obtaining extracts from the register on pledge of movables. Such an abstract will be containing information analogous to the information available in the Internet version of the register. An abstract may be issued in respect of either separate pledge or all pledges of the property, as well as in respect of particular mortgagor; issuance of the abstract reflecting the certain period of time should be also possible.

The principle of publicity and public availability is extended to information on certified wills and their cancellation. Submitting of this information by notary to UIN will not be regarded as disclosure of secrecy of a will.

The Bill provides that the new provisions should enter into force from 10 January 2014, except for some particular clauses with a later period of entry into force. The specified term seems to be realistic taking into account that after adoption of the Bill by the State Duma in the third reading, the Council of Federation has approved it on 26 September 2012. So that now the Bill should be signed by the President, and then published.