

99012038234000, 99012038234000

# Pre-emptive right of the municipality Exercise

Heruntergeladen am 30.06.2025

<https://fimportal.de/xzufi-services/361750169/L100001>

Modul	Sachverhalt
Leistungsschlüssel	99012038234000, 99012038234000
Leistungsbezeichnung I	Pre-emptive right of the municipality Exercise
Leistungsbezeichnung II	
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Hessen
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	fachlich freigegeben (silber)
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)

Modul	Sachverhalt
Lagen Portalverbund	Hausbau und Immobilienerwerb (1050100), Bauplanung (2050400)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	10.08.2020
Fachlich freigegeben durch	Ministry for Energy, Infrastructure and Digitalization Mecklenburg-Western Pomerania
Handlungsgrundlage	<a href="https://www.gesetze-im-internet.de/bbaug/_24.html">https://www.gesetze-im-internet.de/bbaug/_24.html</a> <a href="https://www.gesetze-im-internet.de/bbaug/_25.html">https://www.gesetze-im-internet.de/bbaug/_25.html</a> <a href="https://www.gesetze-im-internet.de/bbaug/_26.html">https://www.gesetze-im-internet.de/bbaug/_26.html</a> <a href="https://www.gesetze-im-internet.de/bbaug/_27.html">https://www.gesetze-im-internet.de/bbaug/_27.html</a> <a href="https://www.gesetze-im-internet.de/bbaug/_28.html">https://www.gesetze-im-internet.de/bbaug/_28.html</a>
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>Exercise of the right of first refusal means that when a municipality purchases a plot of land in its municipal area, it has a right, subject to certain conditions, for it or a third party to enter into the purchase agreement and subsequently become the owner of the land. The right of first refusal may only be exercised if the public good justifies it.</p> <p>The exercise of the right of first refusal may be excluded under certain circumstances or may be averted by the purchaser.</p>
Erforderliche Unterlagen	The seller or the buyer shall immediately notify the municipality of the contents of the purchase agreement so that it can decide whether to exercise the right of first refusal.
Voraussetzungen	<p>A purchase of land takes place.</p> <p>The purchase must be notified to the municipality without delay. Without such notification, the period of three months granted to the municipality to exercise the right of first refusal shall not begin to run.</p>

## Modul

## Sachverhalt

If the municipality exercises a right of pre-emption to which it is entitled and if there is also no reason for exclusion or if it is not averted, the municipality enters into the purchase agreement in place of the purchaser; if it exercises the right in favor of a third party, the latter enters into the purchase agreement.

The municipality or the beneficiary third party must then pay the seller a purchase price which, as a rule, corresponds to the agreed purchase price. Under certain conditions, a lower amount may 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 purchaser 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 results from the municipal tax laws of the federal states in conjunction with the administrative fee statutes of the municipality.

## Verfahrensablauf

The seller or buyer informs the municipality about the content of a purchase contract.

If there is no pre-emptive right or if the municipality does not exercise it, the municipality has to issue a certificate about it at the request of one of the parties (so-called negative notice / certificate).

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

The right of first refusal shall be exercised vis-à-vis the seller; the buyer shall be notified of the decision.

Modul	Sachverhalt
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 without delay.
Frist	The right of first refusal may only be exercised within three months of notification of the purchase agreement to the seller.
weiterführende Informationen	The municipality is entitled to preemptive rights by operation of law (general preemptive rights) and preemptive rights on the basis of statutes (special preemptive rights). Both types have equal status. Statutory preemptive rights serve as instruments under urban development law to safeguard urban land use planning.
Hinweise	<ul style="list-style-type: none"> <li>• The right of first refusal is excluded in several cases, e.g. in the case of a sale to a spouse / relative / in-law or if the property is built on and used in accordance with the development plan.</li> <li>• The right of first refusal can also be averted by the purchaser, for example if the purchaser <ul style="list-style-type: none"> <li>• is able to use the property within a reasonable period of time in accordance with the intended use, and</li> <li>• undertakes to do so within two months of the purchase agreement being notified to the municipality.</li> </ul> </li> <li>• The exercise of a right of first refusal in favor of a third party shall require that the third party <ul style="list-style-type: none"> <li>• is in a position to use the land for the intended purpose within a reasonable period of time, and</li> <li>• undertakes to do so.</li> </ul> </li> </ul>
Rechtsbehelf	
Kurztext	When purchasing a plot of land, the municipality of the respective state or a beneficiary third party may enter into the purchase agreement under certain conditions.
Ansprechpunkt	
Zuständige Stelle	

Modul	Sachverhalt
Formulare	<p>The right of first refusal must be exercised by means of an administrative act. It is regularly issued in writing.</p> <p>No particular 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	Pre-emptive right of the municipality Exercise, Vorkaufsrecht der Gemeinde Ausübung