

99012038234000, 99012038234000

Exercising the municipality's right of first refusal

Heruntergeladen am 30.06.2025

<https://fimportal.de/xzufi-services/355486/L100038>

Modul	Sachverhalt
Leistungsschlüssel	99012038234000, 99012038234000
Leistungsbezeichnung I	Exercising the municipality's right of first refusal
Leistungsbezeichnung II	
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Thüringen
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)

Modul	Sachverhalt
Lagen Portalverbund	Hausbau und Immobilienerwerb (1050100), Bauplanung (2050400)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	08.12.2021
Fachlich freigegeben durch	Thuringian Ministry for Infrastructure and Agriculture
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
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 when purchasing a plot of land in its municipal area, the municipality has the right, subject to certain conditions, to enter into the purchase agreement and subsequently become the owner of the land. This serves to secure and implement the municipality's urban land-use planning.</p> <p>The right of first refusal also includes, for example, properties within the scope of a development plan if the property in question is designated in the development plan for public use or (in the case of undeveloped properties) for residential construction.</p> <p>It may only be exercised if the public good justifies this.</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.

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Voraussetzungen

A plot of land is purchased.

The municipality must be notified of the purchase 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 (also with regard to the purchase price) that the seller had agreed with the original buyer apply. However, the purchase price may be limited if the agreed purchase

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price significantly exceeds the market value in a recognizable manner. In this case, the seller can withdraw from the contract.

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

Technically, the realization of the right of first refusal is ensured as follows: The seller of the property is obliged to notify the municipality immediately of the conclusion of a purchase agreement (this is usually done by the notary). The municipality then has two months to exercise its pre-emptive right (by submitting a corresponding declaration). If it does not exercise its right of first refusal, it issues a so-called negative certificate.

weiterführende Informationen
Hinweise

- 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 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 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 plot of land, 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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	<ul style="list-style-type: none"> • This serves to secure and implement the municipality's urban land-use planning. • Costs may be incurred. • Responsible: the municipal administration.
Ansprechpunkt	Please contact your municipality.
Zuständige Stelle	
Formulare	
Ursprungsportal	Vorkaufsrecht der Gemeinde ausüben, Exercising the municipality's right of first refusal