

99012038234000

Heruntergeladen am 30.06.2025

<https://fimportal.de/xzufi-services/88162/L100042>

Modul	Sachverhalt
Leistungsschlüssel	99012038234000
Leistungsbezeichnung I	
Leistungsbezeichnung II	Pre-emptive right of the municipality; application for a negative certificate
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Bayern
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	
Leistungsgruppierung	
Verrichtungskennung	
SDG-Informationsbereich	
Lagen Portalverbund	
Einheitlicher Ansprechpartner	

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Fachlich freigegeben am	19.02.2025
Fachlich freigegeben durch	Bayerisches Staatsministerium für Wohnen, Bau und Verkehr (Bavarian State Ministry of Housing, Building and Transport)
Handlungsgrundlage	https://www.gesetze-im-internet.de/bbaug/BJNR003410960.html#BJNR003410960BJNG000805116 https://www.gesetze-im-internet.de/bbaug/BJNR003410960.html#BJNR003410960BJNG000805116
Teaser	In certain cases, the municipality has a right of first refusal when transferring land. If you want to purchase a plot of land, you need a negative certificate so that the ownership can be transferred in the land register.
Volltext	<p>The municipality has a right of first refusal when purchasing land under certain conditions. The right of first refusal may only be exercised by the municipality if this is justified in the public interest. It can also do this in favor of third parties.</p> <p>In the case of purchase contracts, the land registry may only enter the buyer as the owner in the land register if the non-exercise or non-existence of the pre-emptive right has been proven.</p> <p>With the negative certificate, the municipality confirms that it</p> <ul style="list-style-type: none"> • does not have a pre-emptive right for the property or • does not exercise it. <p>The application is usually submitted by the notary's office that notarizes the purchase contract.</p>
Erforderliche Unterlagen	
Voraussetzungen	<p>A plot of land is purchased and there is a purchase agreement for a plot of land.</p> <p>Among other things, the municipality has a right of first refusal when purchasing a plot of land</p> <ul style="list-style-type: none"> • within the scope of a development plan, insofar as it concerns land for which the development plan

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stipulates use for public purposes or for areas or measures to compensate for interventions within the meaning of the Federal Nature Conservation Act (compensatory measures),

- in a reallocation area,
- in a formally defined redevelopment area and urban development area,
- within the scope of a statute to safeguard implementation measures for urban redevelopment and a conservation statute,
- within the scope of a land use plan, insofar as it concerns undeveloped areas in the outdoor area for which use as a residential construction area or residential area is shown in the land use plan,
- in areas that can be developed primarily with residential buildings in accordance with Section 30, 33 or 34 (2) of the German Building Code, provided the land is undeveloped, and
- in an area that is to be kept free of development for the purpose of preventive flood protection, in particular in flood plains,
- In addition, a right of first refusal can be established by the municipality in the following cases: In the area covered by a development plan on undeveloped properties, In areas in which it is considering urban development measures to ensure orderly urban development, in the area covered by a development plan on vacant plots of land or for built-up districts (Section 34) on vacant or derelict plots of land by statute, if these can be developed primarily with residential buildings and it is an area with a tight housing market as defined in Section 201a.

Kosten

The amount of the fees for a negative certificate is based on the municipal fee statutes.

Verfahrensablauf

The seller must inform the municipality of the content of the purchase contract.

In most cases, this is done by the notary's office and a written application is made to the municipality in which the property is located for a negative certificate to be issued.

If there is no pre-emptive right or if it is not exercised,

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	the municipality issues a negative certificate. If the municipality wishes to exercise its pre-emptive right, it will issue a corresponding notification to the seller.
Bearbeitungsdauer	
Frist	If there is no pre-emptive right or if it is not exercised, the municipality must issue a negative certificate immediately upon request. If the municipality wishes to exercise its pre-emptive right, it must notify the parties involved in writing within three months. The three-month period commences as soon as the complete purchase agreement has been submitted to the municipality and it has been notified that the purchase agreement is legally effective.
weiterführende Informationen	
Hinweise	
Rechtsbehelf	Legal action Application for a court decision according to § 217 BauGB
Kurztext	
Ansprechpunkt	
Zuständige Stelle	
Formulare	
Ursprungsportal	BayernPortal, BayernPortal