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FINANCIAL LAW NEWS

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AMENDMENT TO CADASTRAL ACT

(Act No. 103/2010 Coll. amending and supplementing Act of the National Council of the Slovak Republic No. 162/1995 Coll. on Real Estate Cadastre and Registration of Ownership and Other Rights to Real Estate (Cadastral Act) as amended)

Pursuant to reasoning report to this Act, this Amendment changes and supplements the Cadastral Act in compliance with findings of analysis of legal regulation in respect to feasibility of public-private partnership (PPP) projects in the Slovak Republic. Accordingly, certain provisions of the Cadastral Act are specified in order to comply with amendments made in civil law regulation and other related areas of law and to satisfy the requirements of application practice.

According to this Amendment, not every building is evidenced in the land book registry. Generally, engineer buildings and small buildings are not registered in the land book registry; these are displayed in cadastral map under parcel No. of the land on which the building is located, or under map reference and are marked with code of type of the land and code of manner of use of the land.

Further, the Amendment specifies provision on local jurisdiction of cadastral administration, in case several cadastral administration offices are competent to act in proceeding on application for registration of ownership right.

Accordingly, requirements for electronic application for registration of right to real estate are specified in more details. When submitting an electronic application, all enclosures shall be in electronic form and shall be signed with guaranteed electronic signature; in case a written application needs a notarized signature, in electronic

application a guaranteed electronic signature provided with time stamp shall meet this requirement.

The Amendment also determines against which decisions on suspension of procedure an appeal shall not be admitted.

This Amendment of the Cadastral Act explicitly stipulates that any change in order of pledges over real estate under agreement of pledgees on order of their pledges relevant for further satisfaction shall be registered to real estate cadastre in form of record.

The Amendment also stipulates how to proceed if an agreement after filing the application for incorporation contains errors in writing or numbering or other obvious inaccuracy. Such agreement shall be corrected by an addendum or supplement to this agreement upon consent of both parties. Also requisites of such addendum are stipulated by this Amendment.

Registration of information on rights to partially built building is also regulated by this Amendment, whereas a person listed in valid construction permit shall be registered as owner of such partial building unless it is evidenced otherwise.

Possibility to deliver (i.e. issue) an extract from the ownership certificate or copies of ownership certificates with designation of seal on pending change in right to real estate to the owner or other entitled person, or person entitled under special law is reintroduced into the provisions of the Cadastral Act.

This Act becomes effective on 1 May 2010.

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AMENDMENT TO ACT ON RETIREMENT PENSION SAVING

(Act No. 105/2010 Coll. amending Act No. 43/2004 Coll. on Retirement Pension Saving and on amending and supplementing certain acts as amended)

In compliance with the reasoning report, purpose of this Amendment is to correct the imperfections pointed out by the European Commission, aimed particularly against limitation of investment parameters on member states of euro zone, while these reservations were focused namely at discrimination of those member states of the European Union which have not adopted euro currency yet.

In compliance with the abovementioned, the Amendment has extended the range of states, previously limited to the member states of euro zone, to all member states, while the member state is defined as a state which is a member state of European Community, or part of European Economic Area, and member of Organization for Economic Cooperation and Development (OECD).

Accordingly, the Amendment sets out the rules, under which the National Bank of Slovakia shall permit to the pension fund management company the increase of limit for investment into transferable securities and instruments of financial market issued or guaranteed by the member state.

In order to reduce the currency risk related to the investment, the Amendment stipulated that the transferable securities and instruments of financial market shall be denominated in same currency in which the value of the pension fund unit is expressed.

This Act became effective on the day of publication in the Collection of Laws, i.e. 27. March 2010.

AMENDMENT TO ACT ON MUNICIPAL GOVERNMENT

(Act No. 102/2010 Coll. amending and supplementing Act of the Slovak National Council No. 369/1990 Coll. on Municipal Government as amended and on amending and supplementing certain acts)

Pursuant to the reasoning report, the Amendment of Act on Municipal

Government deals with certain issues resulting from its application and it repeal certain provisions which according to the Constitutional Court of the Slovak Republic are not in compliance with the Slovak Constitution.

Subject of this Amendment to the Act on Municipal Government is, in particular to precise relations between municipal council and mayor of the municipality in order to deepen the balance of competencies of both above stated municipal bodies, as well as more detailed regulation of organisation of local referendum, specification of issues related to summoning and administration of the municipal council meeting in order to ensure its smooth course.

This Amendment also regulates the role of mayor of the municipality when deciding on rights and duties of natural persons and legal entities in the area of public administration. The essential change is the fact that the mayor is no more the administrative body of the municipality, but the municipality as a legal entity is the administrative body of the municipality on behalf of which the mayor shall act.

This Amendment regulates a new manner of appointment into function of mayor's deputy, including the possibility to appoint two mayor's deputies in larger municipalities, as well as the requirements for removal of municipality head controller from function are stricter.

The issue of cooperation of municipalities in form of association of municipalities is further specified.

This Amendment has changed also provisions of the Act regulating the conditions of sale and distribution of press and other objects eligible to menace the moral, Act on Organisation of Constitutional Court of the Slovak Republic, Act on State Prosecution and the Act regulating certain conditions of dogs' possession.

This Act became effective on 1 April 2010, except for Article I point 81. that will become effective on 1 January 2011.

AMENDMENT TO CONSTITUTION OF SLOVAK REPUBLIC AND ACT ON PROPERTY ORIGINS EVIDENCING

(Act No. 101/2010 Coll. on Evidencing of the Property Origins and Constitutional Act No. 100/2010 Coll. amending the Constitution of the Slovak Republic No. 460/1992 Coll. as amended)

The purpose of this Act is to regulate the conditions and practice of the public administration bodies when expropriating real estate property, movable property, flats and non-residential premises, other property rights and other property values, monetary means in cash in euro and in foreign currency, deposits in banks of natural persons and legal entities on whose the court has pronounced, under this Act, that they have acquired the property from illegal earnings.

The Act regulates the information duty of public administration bodies towards the financial police service of the Police Forces, in case they have reasonable and probable cause that the property was acquired illegally. Further, the Act regulates rights and duties of the financial police service in connection with justified suspicions suggesting the acquirement of property from illegal earnings and in related proceedings.

Financial police shall submit to the competent state prosecutor a motion for submitting application for commencement of proceedings on pronouncing that the property was at least of 1500 multiple of the minimum wage higher than the evidenced income. The state prosecutor has a duty to investigate such motion, and in cases reasoned by the law, to submit an application for commencement of proceedings on pronouncing that the property was acquired illegally.

In the event that the prosecutor evidences before the court existence of difference in the amount of minimally 1500 multiple of the minimum wage between evidenced income of the defendant which he might acquire and his actual property, the court shall decide that the defendant acquired this property difference stated in the application illegally and shall be confiscated/forfeited by the

state. If the defendant proves the contrary, the court shall dismiss the prosecutor's application.

The special regulation shall apply on the liability of the state under this Act for the damage caused by illegitimate decision or improper administrative procedure.

Constitutional Act, amending the Constitution of the Slovak Republic explicitly stipulates that the property acquired contra legem shall not be protected. Accordingly, it establishes a legal basis for intervention to the property rights as regards the property acquired illegally or from illegal earnings.

This Act and the Constitutional Act will become effective on 1 January 2011.

AMENDMENT TO CRIMINAL PROCEDURE CODE

(Act No. 93/2010 Coll. supplementing Act No. 301/2005 Coll. Criminal Procedure Code as amended)

The Amendment supplements the provision relating to the place of the main hearing, so that it stipulates that if it is appropriate and effective the main hearing might take place directly and immediately in the place where the misdemeanour was committed with application of abbreviated/shortened investigation. The only restriction to applicability of this procedure is a situation when the conditions for mandatory defense are met.

In compliance with reasoning report, this Amendment to the Criminal Procedure Code is a reaction on increased number of misdemeanours in connection with sport events and with regard to the practice of other countries in establishment of mobile courts the Amendment introduces this institute also into Slovak legal regulation.

This Act became effective on 1 April 2010.

ACT ON SUPPORT OF TOURISM

(Act No. 91/2010 Coll. on Support of Tourism)

This Act regulates the support of the tourism in the Slovak Republic, rights and duties of natural persons and legal entities operating

in the tourism, formation of conceptual documents and financing of tourism development.

This Act also regulates the competencies of Ministry of Culture and Tourism of the Slovak Republic, as well as the competencies of the agency as a contributory organisation of the Ministry of Culture and Tourism of the Slovak Republic, in connection with support and propagation of Slovakia, as well as competencies of the local administrative bodies in the area of tourism. Further, the Act provides for establishment of regional and district organisation of tourism which shall support and create conditions for development of tourism on the regional level.

The Act further regulates means and forms of tourism financing. In this respect, it enumerates subjects which participate on financing of tourism, as well as detailed procedure of granting subventions from state budget (filing of applications, its requirements and enclosures, decision on granting a subvention and concluding a contract on subvention between the Ministry and the organization of tourism).

This Act will become effective on 1 January 2011.

MEASURE ON SYSTEM OF INTERNAL CONTROL OF INSURANCE AND REINSURANCE COMPANY

(Notification of the National Bank of Slovakia No. 88/2010 Coll. on Issuance of Measure providing Details on System of Internal Control and on Functioning of Division of Internal Audit of Insurance Company, Reinsurance Company, Branch of Foreign Insurance Company and Branch of Foreign Reinsurance Company)

National Bank of Slovakia issued on the basis of empowering provision of the Act on Insurance a measure providing details on system of internal control and on functioning of division of internal audit of insurance company, reinsurance company, branch of foreign insurance company and branch of foreign reinsurance company. The Measure set out details on system of internal control and responsibilities which the division of internal audit shall fulfil within the scope of its activities.

The Measure is published in part 11/2010 of the Bulletin of the National Bank of Slovakia and is available for inspection at each organizational unit of the National Bank of Slovakia.

This Measure became effective on 1 April 2010.

FORM ON CONDITIONS OF CONCLUSION OF INSURANCE CONTRACT

(Notification of the National Bank of Slovakia No. 87/2010 Coll. on Issuance of Measure providing Template of Form on Conditions of Conclusion of Insurance Contract)

National Bank of Slovakia issued on the basis of empowering provision of the Act on Insurance a measure providing a template of form on conditions of conclusion of insurance contract which shall facilitate the decision of insured whether to conclude the insurance contract, as well as the explanatory notes for filling in the form.

The Measure is published in part 11/2010 of the Bulletin of the National Bank of Slovakia and is available for inspection at each organizational unit of the National Bank of Slovakia.

This Measure became effective on 1 April 2010.

DECREE ON MAIL ORDER DISTRIBUTION OF MEDICAMENTS

(Decree of the Ministry of Health of the Slovak Republic No. 74/2010 Coll. providing Details on Mail Order Distribution of Medicaments and Sanitary Aid)

Ministry of Health of the Slovak Republic on the basis of empowering provision issued this Decree providing details on mail order distribution of medicaments and sanitary aid upon order (hereinafter the "mail order distribution"), on premises requirements to ensure the mail order distribution, on means of publication of information on mail order distribution, on form of packing of mail order and its transport, on form of the reclamation and on means of securing the premises for separate keeping of returned medicaments and sanitary aid.

The Decree further provides which activities constitute the mail order distribution, as well

as negative determination which activities are not considered as mail order distribution. Besides, the Decree determines the content of information on mail order distribution, requirements for packing of distributed medicaments, conditions and form of return of medicaments.

Annex to this Decree stipulates the information relating to the mail order distribution and activities related to the mail order distribution which are integral part of operational order of the holder of license to provide a pharmaceutical care.

This Decree became effective on 15 March 2010.

CHANGE IN PUBLIC PROCUREMENT ACT

(Act No. 73/2010 Coll. amending and supplementing Act No. 25/2006 Coll. on Public Procurement and on amending and supplementing of certain acts as amended)

According to reasoning report to this Amendment, authorisation of the Public Procurement Office to designate invalidity of contract under Section 148 appears as over possibility of public administration body to intervene into private legal relations, therefore whole provision of Section 148 shall be deleted from the Act on Public Procurement, in compliance with this Amendment and this fact is also transposed into temporary provision of this Act.

In further text of the Amendment, certain legal definitions are introduced for the purposes of this Act and the end of the functional period/term of the President of the Office is further determined and shall end only upon appointment of new President of the Office.

This Act became effective on 1 April 2010, except for point 6 and 7 in Article I, Section 155e in point 9 in Article I and Article II which became effective on the day of publication in Collection of Laws, i.e. on 9 March 2010.

AMENDMENT TO ACT ON OWNERSHIP OF FLATS AND NON-RESIDENTIAL PREMISES

(Act No. 70/2010 Coll. amending and supplementing Act of the National Council of the Slovak Republic No. 182/1993 Coll. on Ownership of Flats and Non-residential Premises as amended and amending Act of the National Council of the Slovak Republic No.

118/1996 Coll. on Deposit Protection and on amending and supplementing certain acts as amended)

The Amendment to the Act on Ownership of Flats and Non-residential premises specifies decision making process in administration of residential house, deals with the relationship between the owners of flats and non-residential premises and the administrator (in particular, bodies of community of owners), regulates the establishment of such community of owners of flats and transpose the observations from application practice of this Act.

The Amendment particularly deals with the means of establishment of community of owners also in connection with establishment of community in case the community is created under statutory provision and when the application for registration into register is submitted by the administrator, providing that the administrator becomes a party to the administrative proceedings.

Further, the Amendment regulates the means of advance payment into the fund of operation, maintenance and repairs, determined according to the amount of co-ownership share. Accordingly, it determines the incomes which may constitute the fund of operation, maintenance and repairs of residential house.

Equally, the Amendment emphasize the obligation of the owner in strictly determined cases to make accessible his flat or non-residential premise to entitled persons, in order to observe the lawful and protected interests of other co-owners of flats and non-residential premises, as well as of administrator as a guarantor of professionalism in performance of administration of residential house.

The amended regulation permits the owners of flats and non-residential premises to vote in written form in statutory prescribed situations, while providing precise conditions for such vote.

This Act became effective on 1 April 2010.

CHANGE OF DECREE ON PROVISION OF INFORMATION ON TRANSACTION WITH ASSETS IN PENSION FUND

(Decree of the National Bank of Slovakia No. 69/2010 Coll. amending Decree of the National Bank of Slovakia No. 91/2008 Coll. on Provision of Information on Transactions with Assets in Pension Fund and on State of Assets in Pension Fund by Pension Fund Management Company and its Depositary and on amendment of Decree of the National Bank of Slovakia No. 567/2006 Coll. providing the Content of Reports on Management of Assets in Pension Fund, Reports on Management of Proper Assets of Pension Fund Management Company, Means and Extent of their Publication and Content of Daily Information on each Transaction with Assets in Pension Fund as amended by Decree No. 523/2008 Coll.)

This Decree provides means of evaluation of the value of assets in pension funds which shall be performed in compliance with Decree on Evaluation (i.e. Decree of the National Bank of Slovakia No. 246/2009 Coll. on Means of Determination of Value of Assets in Pension Fund and in Supplementary Pension Fund and on amending Decree of Ministry of Finance of the Slovak Republic No. 217/2005 Coll. on Own Sources of Supplementary Pension Fund Management Company and on Methods and Procedures of Designation of Value of Assets in Supplementary Pension Funds as amended).

At the same time, certain Annexes to previous Decree are replaced by new Annexes.

This Decree became effective on 1 April 2010.

AMENDMENT TO GEOLOGICAL ACT

(Act No. 110/2010 Coll. amending and supplementing Act No. 569/2007 Coll. on Geological Works (the Geological Act) as amended)

In compliance with reasoning report, the aim of this Amendment of the Geological Act is to enlarge the competencies of municipalities, cities and self-governing regions, particularly in connection with priorities of optimal development, territorial organisation and functional exploitation of municipalities, cities and self-governing regions territories which shall be taken into account in relevant proceedings.

In this regard, this Amendment provides that in exploration proceedings on occurrence of

radioactive minerals aggrieved municipalities and self-governing regions shall have the position of party to such proceedings, whereas they shall have the possibility to file a motion for change or suspension of exploration proceedings, however only for reason of non-compliance with adopted and approved priorities of economical and social development or binding part of urban zoning documentation.

In compliance with this Amendment, the Ministry of Environment of the Slovak Republic determines the areas in which it is possible to perform geological exploration of deposit of oil and natural gas. Determined areas are published on the Ministry's website.

Accordingly, decision making competence in this area remained with the Ministry of Environment of the Slovak Republic, while the Ministry shall competently decide, on the basis of certainly determined facts, as well as on the basis of knowledge of positions and statements of aggrieved bodies of municipalities and self-governing regions.

This Act will become effective on 1 January 2011.

AMENDMENT TO MINING ACT

(Act No. 104/2010 Coll. amending and supplementing Act No. 44/1988 Coll. on Protection and Exploitation of Mineral Resources (the Mining Act) as amended)

The Amendment supplements the documentation/records which is necessary to attach to the application for determination of mining area, especially the documentation in case of application for utilisation of cyanide leaching technology or application for opening, preparation, mining, modification and refinement of radioactive minerals, containing namely, proposed method of mining, as well as means of opening, preparation, mining, modification and refinement, preliminary dates of opening, preparation, mining works, measures to decrease the impact on environment, the financial and technical possibilities of applicant, as well as the calculation of estimated gains of utilisation of deposits of minerals for state from the title of estimated payment for minerals gained of exclusive deposit.

In accordance with reasoning report to this Amendment, reason of these supplements is the interest to ensure qualified records and documentation for determination of mining area proceedings, and therefore facilitate the decision on the basis of certainly determined facts, as presumed by the Administrative Procedure Code.

At the same time, this Amendment provides specific procedures when mining radioactive minerals.

Further modifications and amendments are reaction on Rumanian catastrophe with mining waste and represent an implementation of Directive of the European Community on Disposal of Mining Waste, particularly connected to the application of cyanide leaching technology, while regulating the conditions for issuance of license for use of cyanide leaching technology.

This Act will become effective on 1 January 2011.

Other significant legal regulations published in the Collection of Laws in the month of March 2010 are as follows:

- Act No. 114/2010 Coll. amending and supplementing Act of the National Council of the Slovak Republic No. 152/1995 Coll. on Food as amended and on amending and supplementing Act No. 44/1988 Coll. on Protection and Exploitation of Mineral Resources (the Mining Act) as amended,
- Act No. 113/2010 Coll. amending and supplementing Act of Slovak National Council No. 377/1990 Coll. on Capital City of the Slovak Republic Bratislava as amended,
- Act No. 112/2010 Coll. amending and supplementing Act No. 85/1990 Coll. on Petition Right as amended by Act No. 242/1998 Coll. and on amending and supplementing of Act of the Slovak National Council No. 346/1990 Coll. on Election to Self-governing Bodies of Municipalities as amended,
- Act No. 111/2010 Coll. amending and supplementing Act No. 136/2000 Coll. on Fertilizers as amended and on amending Act No. 188/2003 Coll. on Application of Cleaning Settling and Ground Sediments into Soil and on amending Act No. 223/2001 Coll. on Waste and on amending and supplementing certain acts as amended as amended,
- Decree of the Ministry of Transport, Post and Telecommunications of the Slovak Republic No. 108/2010 Coll. amending Decree of the Ministry Transport, Post and Telecommunications of the Slovak Republic No. 388/2009 Coll. issuing the Toll Order as amended,
- Regulation of the Government of the Slovak Republic No. 96/2010 Coll. amending and supplementing Regulation of the Government of the Slovak Republic No. 373/2008 Coll. providing Requirements for Introduction on Market of Preparations for Plants Protection, as amended,
- Act No. 92/2010 Coll. amending and supplementing Act No. 190/2003 Coll. on Firearms and Ammunition and on amending and supplementing certain acts as amended and amending Act of the National Council of the Slovak Republic No. 145/1995 Coll. on Administrative Fees as amended,
- Notification of the Ministry of Foreign Affairs of the Slovak Republic No. 90/2010 Coll. on Conclusion of Singapore Treaty on Trademark Right of 27 March 2006,
- Decree of the Ministry of Economy of the Slovak Republic No. 86/2010 Coll. executing certain provision of Act No. 414/2002 Coll. on Economic Mobilisation and on amending Act of the National Council of the Slovak Republic No. 274/1993 Coll. on Determination of Competencies of Bodies in the Area of Consumer Protection as amended as amended,
- Regulation of the Government of the Slovak Republic No. 85/2010 Coll. repealing Regulation of the Government of the Slovak Republic No. 594/2002 Coll. providing Details on Technical Requirements on Energy Effectiveness and Procedure of Assessment of Compliance for Electric Voltmeters of Lamp Sources of Light,
- Act No. 84/2010 Coll. amending and supplementing Act No. 171/2005 Coll.

- on Gambling and on amending and supplementing certain acts as amended,
- Act No. 83/2010 Coll. amending Act No. 222/2004 Coll. on Value Added Tax as amended,
 - Regulation of the Government of the Slovak Republic No. 81/2010 Coll. amending and supplementing Regulation of the Government of the Slovak Republic No. 658/2005 Coll. providing Requirements for Cosmetic Products as amended,
 - Regulation of the Government of the Slovak Republic No. 80/2010 Coll. amending and supplementing Regulation of the Government of the Slovak Republic No. 199/2005 Coll. on Protective Measures against Spread and Expansion of Organism Detrimental for Plants or Vegetal Products as amended,
 - Regulation of the Government of the Slovak Republic No. 79/2010 Coll. amending and supplementing Regulation of the Government of the Slovak Republic No. 493/2008 Coll. providing Calculation of Expenses of Central Control of Food Bodies and Public Administration Bodies in Veterinary Area,
 - Regulation of the Government of the Slovak Republic No. 78/2010 Coll. providing Conditions for Provision of One Time Support in Milk Production Sector,
 - Notification of the Ministry of Foreign Affairs of the Slovak Republic No. 77/2010 Coll. on supplementing of Complete Actualized List of Bodies of Contractual Parties under Article 6 of Treaty on Suspension of Requirement of Higher Legalisation of Foreign Public Documents,
 - Notification of Ministry of Foreign

Affaires of the Slovak Republic No. 72/2010 Coll. on Conclusion of Agreement between the Government of the Slovak Republic and the Government of Republic of Moldova on Cooperation and Mutual Assistance in Customs Area,

- Decree of the Ministry of Transport, Post and Telecommunications of the Slovak Republic No. 71/2010 Coll. amending and supplementing Decree of the Ministry of Transport, Post and Telecommunications of the Slovak Republic No. 464/2009 Coll. providing Details on Operation of Vehicles in Driving on Ground Communications as amended by Decree No. 589/2009 Coll.

JUDICIAL DECISIONS

In this part are stated quotations from opinions of selected judicial decisions and statements in civil, labour and business matters which were recently published in the journal From Court Practice (in Slovak: Zo súdnej praxe):

CONTRACT ON TRANSFER OF RIGHTS AND DUTIES

(Decision of the Supreme Court of the Slovak Republic No. 1 M Obdo V 6/2006, published in the journal From Court Practice No. 1/2010, No. 7)

Section 524 et seq. of the Civil Code
Section 19a (2) of Act No. 92/1991 Coll.

When transferring rights and duties resulting from the contract which was partially fulfilled before the transfer of these rights, on its basis a transfer of only those rights and duties which are still resulting from such a contract at the time of the transfer shall take place. The transfer shall not relate to those rights and duties which the obliged party has already fulfilled.

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Advokátska kancelária Čechová & Partners

Združenie advokátov: JUDr. Katarína Čechová (evidenčné číslo v zozname advokátov vedenom Slovenskou advokátskou komorou: 0339/317 831 63) poverená vedením účtovníctva združenia pod IČ DPH SK1020333083, JUDr. Simona Haláková (5503/318 195 41), Mgr. Ing. Michaela Jurková (4286/307 989 57), Mgr. Tomáš Mareta (1601/318 172 11), Mgr. Tomáš Rybár (3988/307 967 76).

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