

Government approves Draft Real Estate Credit Act

The aim of the new legislation is to reduce costs associated with modifications to mortgage contracts and to strengthen transparency.

The government approved the Draft Real Estate Credit Act, which transposes the European Directive and seeks to enhance the transparency of mortgage contracts, explained the Minister for Economic Affairs, Industry and Competition, Luis de Guindos.

As regards the transposition, Luis de Guindos stressed that the new legislation has consistently opted for those alternatives that are most favourable to the mortgage debtor. Accordingly, commissions for early repayment of loans at variable interest rates are made cheaper, and are even cancelled out entirely after the mortgage loan has been in force for more than five years; a maximum commission is established for fixed-rate mortgages, compared with the current situation whereby two potential commissions are applied, one of which has no type of limit whatsoever.

Furthermore, it establishes the right of the consumer to exchange a loan in a foreign currency to the national currency or indeed any other type of currency; related sales are banned - those which force the consumer to accept a series of financial products as a condition for obtaining a mortgage - and the legal regime for real estate credit intermediaries is regulated.

The Minister for Economic Affairs pointed out that the text is not limited to transposing the EU Directive, but rather responds to recent judicial rulings that have clearly evidenced the need for greater transparency in mortgage legislation.

In this regard, the new legislation facilitates the conversion of mortgages from variable rates to fixed rates, both for new mortgages and those already in force. The commissions for this conversion are eliminated as of the third year, and notary and registry costs are reduced.

Greater transparency and information

Other new features oblige the lender to hand over detailed information on the mortgage to the client, including the most "sensitive" clauses and tables with the evolution of mortgage instalments, and the mortgagor will receive free advice from the notary public on the content of the contract for seven days prior to exchanging contracts.

The new legislation also regulates the early repayment of the loan, "such that any type of discretion when agreeing this clause is avoided", pointed out Luis de Guindos. The requirement is extended for financial institutions to begin to enforce a loan to nine unpaid monthly instalments or to an amount that exceeds 2% of the capital granted during the first half of the loan; during the second half, the percentage will be 4% or 12 unpaid monthly instalments.