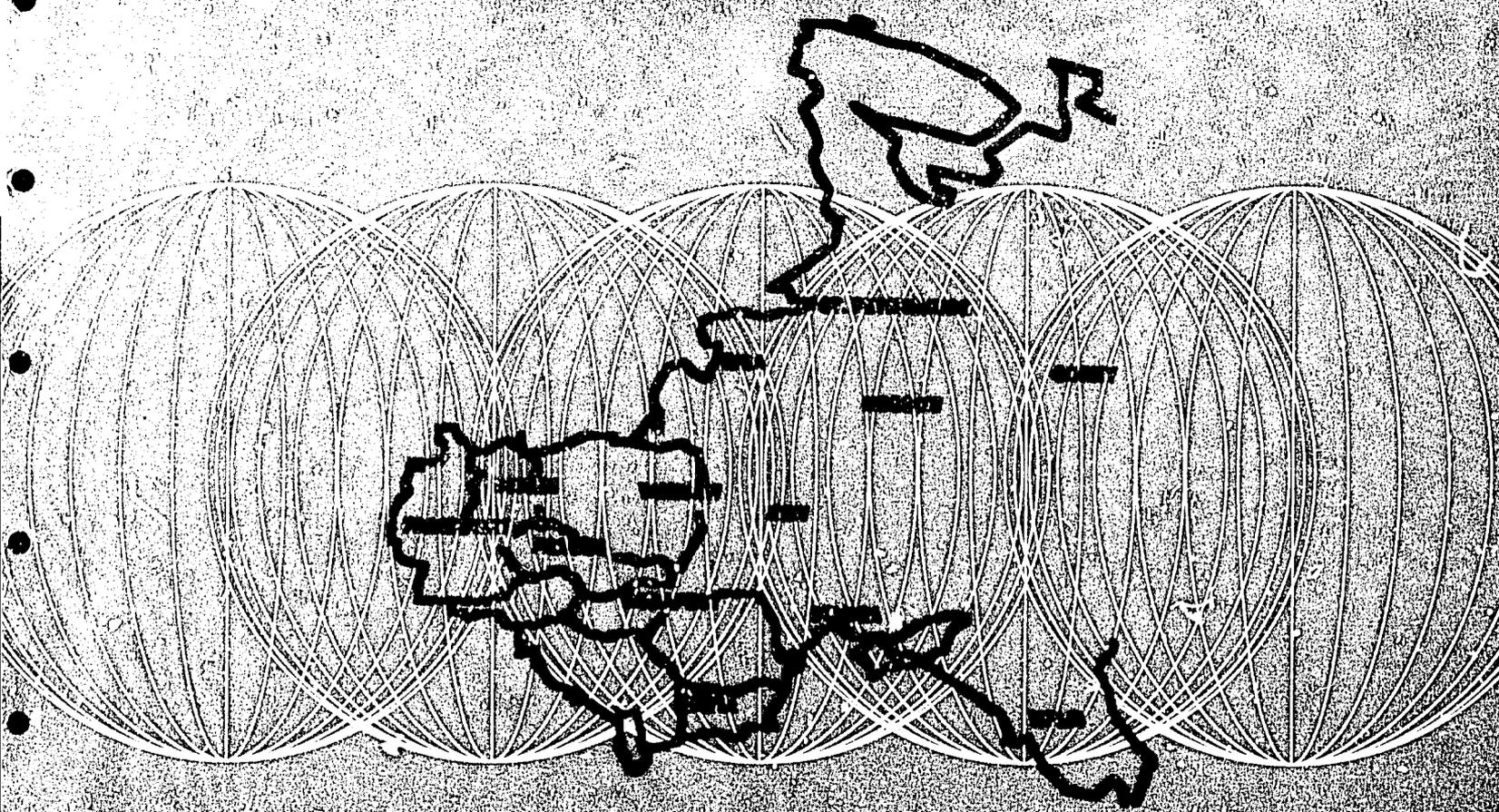
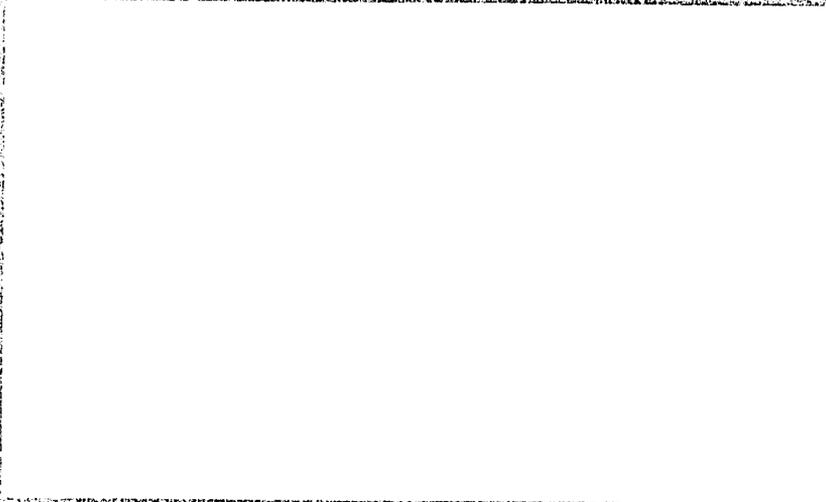


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THE URBAN INSTITUTE
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**SUMMARY OF LAWS RELATING TO
HOUSING AND URBAN DEVELOPMENT
IN THE RUSSIAN FEDERATION**

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Abstract

The body of law relating to housing and urban development in the Russian Federation is in a stage of flux as legislators redefine the law to reflect the country's changing political and economic goals. During this dynamic period, there is much uncertainty in the law. While the basic framework exists, there are many internal contradictions and incomplete areas. This report attempts to define the basic framework that exists in this area of the law. This "Summary of Laws" identifies the fundamental Russian laws and implementing regulations related to housing and urban development. A description of each law defines the date of enactment and contents of the law. Laws that are currently in progress are noted as such. The reader should note that this "Summary of Laws" is the first in a series of twice annual summaries that will be produced by the Urban Institute under the United States Agency for International Development Shelter Sector Reform Project.

SUMMARY OF LAWS RELATING TO HOUSING AND URBAN DEVELOPMENT IN THE RUSSIAN FEDERATION

The following is an outline of the basic laws of the Russian Federation and the City of Moscow, existing and in development, relevant to the housing and urban development issues addressed in USAID's technical assistance mission to Russia and the City of Moscow.

I. GENERAL COMMERCIAL LAW

(a) Existing

- (1) *Fundamentals of Civil Law of the USSR and the Republics, May 31, 1991; Reenacted by Russian Supreme Soviet July 14, 1992*

Adopted prior to the dissolution of the USSR, this law was reenacted by the Russian Supreme Soviet as the fundamental principles of civil law for the Russian Federation.

The civil law is the basic commercial law of the Federation. It addresses such issues as: basic contract law; loan contracts; basic principles of secured transactions; rules of agency; rules of construction contracting; rules of guarantee and endorsement; making and transferring debts and other financial instruments.

- (2) *The Civil Code of the RSFSR, June 11, 1964, as amended*

The RSFSR Civil Code remains effective to the extent not contradicted by the Fundamentals of Civil Law, and addresses many of the same issues as the Fundamentals of Civil Law.

- (3) *Code of Civil Procedure of the RSFSR; June 11, 1964, as amended*

The Code of Civil Procedure is the only law that addresses the issues of enforcement of mortgages and other types of secured claims. It is substantially out of step with recent developments in the mortgage law, and there is no revision or restatement presently under consideration.

The more recent law on the state arbitral tribunals (Code of Arbitral Procedure of the Russian Federation; March 5, 1992) enacts additional procedural rules for commercial disputes but also falls back on the Code of Civil Procedure for rules applicable to the enforcement of secured claims.

(b) In Development

(1) Revised Civil Code

A restatement of the RSFSR Civil Code is presently under consideration that will bring the existing Code into conformity with the more modern commercial concepts found in the 1991 Fundamentals of Civil Law, supra at I (a) (1). The revised Civil Code could be taken up by the Supreme Soviet by June 1993.

II. MORTGAGE LAW AND FINANCE

(a) Existing

(1) Russian Federation Law on Collateral (Pledge); May 29, 1992

This is the basic law on secured financing transactions of all types, including pledge, chattel mortgage and real property mortgage. It is a law of fundamental principles.

(b) In Development

(1) Draft Russian Law of Mortgage

This draft law is presently in the Supreme Soviet Committee on Budget, Planning, Taxes and Prices. It deals exclusively with real property mortgages and further develops and refines the concepts found in the Law on Collateral. It is not a codex of the Law on Collateral, however, and may modify or revise the Law on Collateral or introduce new concepts. The law should receive a first reading in March 1993.

(2) Law of Commercial Paper

There are presently under consideration various models of western law dealing with commercial paper. The Fundamentals of Civil Law provide only an outline of the principles of commercial paper. Legislators are looking at both the American Uniform Commercial Code and the European law of commercial paper. This area of law could be addressed in the revised Civil Code now in preparation or in a separate law of commercial paper. Since the Supreme Soviet recently enacted a separate law of Checks and Bank Notes that closely resembles Article 4 of the American Commercial Code, a separate law is likely.

III. HOUSING

(a) Existing

- (1) *Constitution of the RSFSR, as amended by Amendments of December 1992*

Article 58 of the Constitution, amended as of December 1992, set out the basic principal of the right to publicly assisted housing and the right of private housing.

- (2) *Fundamentals of the Housing Legislation of the USSR and the Union Republics; June 24, 1981*

The basic housing legislation of the USSR survives and is one of the main sources of law for issues in the housing sector. This law will be replaced by the Housing Code presently in development and discussed under III (b) (1), *infra*.

- (3) *RSFSR Housing Code, 1982*

This is the implementing codex of the Fundamentals of Housing Legislation described under III (a) (2), *supra*.

- (4) *Law on Ownership on the Territory of the RSFSR; July 14, 1990*

The Law on Ownership is the basic law dealing with property rights in property of all types, including housing, and also addresses such issues as forms of joint and common tenancy and rights to pledge and mortgage owned property. The Law on Ownership is a law of fundamental principles. Many of the principles and concepts in the law are further refined and expanded in more recent housing laws such as the Law on Privatization and the Fundamental Principles of Federal Housing Policy, *infra* at III (a) (3) and (4).

- (5) *Law of the RSFSR on the Privatization of the Housing Stock in the RSFSR; July 4, 1991, as amended*

The Privatization law sets out the basic principles for privatizing state, municipal and enterprise housing. The law was amended by the "Law of the Russian Federation On Introducing Changes and Amendments into the Law of the RSFSR On Privatization of the Housing Stock in the RSFSR," November 18, 1992.

- (6) *Law on Fundamental Principles of Federal Housing Policy; December 24, 1992*

This law sets out the main policy objectives and role of the federal government

in the housing sector. It addresses such issues as: housing allowances; increasing rents and utility charges; condominium and other common ownership structures; and rights of tenants in public and private housing. It is the replacement for the Fundamentals of Housing Legislation described under III (a) (2), supra, framework for development of the revised RSFSR Housing Code, infra at III (b), infra.

(b) In Development

(1) Revised Housing Code

The revised Housing Code of the RSFSR is presently in preparation and will further refine and elaborate the principles set out in the Fundamental of Federal Housing Policy, supra at III (a) (4) and is a replacement for the existing RSFSR Housing Code described under III (a) (3), supra. The Revised Housing Code is scheduled for a first reading in the Supreme Soviet in June 1993.

IV. LAND

(a) Existing

(1) Constitution of the Russian Federation, Amendments of December 1992

Recent Amendments to Articles 10, 11 and 12 of the Constitution address ownership rights in land, and essentially remove restrictions on market transactions in land used for residential purposes. There remains considerable difference of opinion on the scope of the recent amendments.

(2) Land Code of the RSFSR; April 25, 1991

This Code sets out the basic rules for land ownership, use and disposition. It has been modified by the recent Constitutional amendments, described above.

(3) Law of the RSFSR On Payment for Land; October 11, 1991

This law provides formulas for determining the transfer price, annual tax or lease payment on land transferred to private ownership.

(4) Decree of the President of the Russian Federation On Urgent Measures to Implement Land Reform in the RSFSR; December 27, 1991

This decree provides for the privatization of collective farms and the reallocation of surplus agricultural land for non-agricultural purposes. It includes a concept of local government land banks.

(5) *Fundamental Legislation of the USSR and the Union Republics on Leasehold; February 28, 1990*

This legislation was enacted as a major policy initiative as a substitute for private property ownership and probably as an attempt to defer private ownership. It has been rapidly overtaken by the laws of private property ownership and its continuing relevance to land issues is questionable.

(b) In Development

(1) *Revised Land Code of the Russian Federation*

A revised land code is in preparation, and may be submitted for first reading in the Supreme Soviet in March 1993. The revised Code should reflect the recent changes to land law as expressed in the housing laws and the recent Constitutional amendments.

(2) *Russian Federation Law on Land Banks*

This law would facilitate transactions in land through the creation of quasi-governmental land banks authorized to finance and act as intermediaries in land transactions. Such land bank facilities may still be necessary to facilitate transactions in agricultural, industrial and commercial land because of 5 and 10 year moratoriums on private transactions in such land found even in the recent amendments to the Constitution (supra at IV (a) (1)). The status of this legislation is unknown at this time.

V. PLANNING

(a) Existing

(1) *Law of the RSFSR On The Fundamentals of Town Planning; July 14, 1992*

This is a law of fundamental principles. It provides a general structure for urban planning activities of the federal and local governments and addresses the allocation of land by governments for private development enterprises.

(b) In Development

(1) *Town Planning Code*

This code will further develop the concepts of the Fundamentals of Town

Planning, supra at V (a). It has been in preparation at least since October 1992, with no observable results. The status of this code is unclear at this time.

VI. CONDOMINIUMS

(a) Existing

(1) Law on Ownership, supra at III (a) (2)

The Law on Ownership set out basic principles for common property ownership, including housing ownership.

(2) Law of Privatization of the Housing Stock in the RSFSR, supra at III (a) (3)

The Privatization Law establishes the basic principle that privatized apartments are to be held in individual ownership and the common areas and facilities of buildings are to be held in joint ownership of the apartment owners.

(3) Fundamental Principles of Federal Housing Policy, supra at III (a) (4)

The Fundamental Principles of Housing Policy explicitly recognize the condominium form of ownership and permit local governments to enact appropriate regulations governing condominium associations.

(4) Moscow Regulation On Procedure of Acceptance and Maintenance of Houses Sold in Duly Authorized Way at Auction Sale; November 20, 1992

This regulation deals with newly constructed municipal housing which is to be privatized by public auction. The regulation requires that housing associations be established for such buildings and that management eventually be turned over to such associations.

(b) In Development

(1) Draft Moscow Regulation on Housing Communities

The City of Moscow has prepared a draft of regulations regulating the establishment and operation of common ownership housing communities. The regulation is presently undergoing extensive review but may be enacted in February or March 1993.

VII. PROPERTY REGISTRATION/CADASTRES

(a) Existing

- (1) *Land Code of the RSFSR, supra at IV (a) (3)*

The Land Code establishes in the Federal Government the responsibility for creation and maintenance of a nationwide land cadastre, focusing primarily on physical characteristics and economic use.

- (2) *Statute On the Management Order of the State Land Cadastre; Enactment #622 of the Russian Federation Government; August 25, 1992*

This governmental decree is essentially an administrative order implementing the cadastral provisions of the Land Code. It includes the requirement to register information on the "juridical status" of land, including rights of ownership and lease and permitted uses. The actual work of creating and maintaining the cadastre is delegated to local government.

(b) In Development

- (1) *Draft Law of Mortgage, supra at II (b) (1)*

Following the Land Code of the RSFSR, the draft Law of Mortgage requires that mortgages be registered in the Land Cadastres maintained by the local government Committees on Land Resources and Land Management.

- (2) *Draft Law on Real Estate Registration*

The St. Petersburg Soviet approved on August 26, 1992 and submitted to the Supreme Soviet in October 1992 a comprehensive law on registration of interests in real property entitled "Law of the Russian Federation on Real Estate and Registration of Real Estate Transactions." The status of this law is unknown at this time.

- (3) *Draft Moscow Regulation on Housing Communities, supra at VI (b)*

The draft regulation on common interest communities would require registration of such communities with the Moscow Bureau of Technical Inventory, which maintains a technical cadastre regarding land and land use.

VIII. FEDERALISM/INTERGOVERNMENTAL RELATIONS

(a) Existing

(1) The Federal Agreement; March 13, 1992

The Federal Agreement is essentially a treaty between the Federal Government and the Republics setting out their respective authority to enact law in specified substantive areas.

(2) Law On Amendments and Additions to the Constitution of the RSFSR; April 21, 1992

The 1992 Amendments to the Constitution essentially reflect the terms of the Federal Agreement, but also discuss the legal authority of lesser jurisdictions such as krays, oblasts and independent cities.

(3) Law On Kray and Oblast Soviets of Peoples' Deputies and Kray and Oblast Administration; March 5, 1992

The krays and oblasts are independent governments of general jurisdiction that are not Republics. This law addresses the same issues with respect to these governments as are addressed with respect the Republics' powers in the Federal Agreement, but also addresses rights of political participation and administrative procedure in these jurisdictions.

(4) Law of the RSFSR On Local Self-Government in the RSFSR; July 6, 1991

The Law of Local Government is essentially a "home rule" enabling act and code of political rights and administrative procedure applicable to municipalities and local governments in the Federation below the Republic, kray and oblast level.