

LAW OF UKRAINE
ON EVALUATION OF PROPERTY AND PROPERTY RIGHTS AND
PROFESSIONAL EVALUATION ACTIVITY IN UKRAINE

No.2658-III

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This Law shall define legal principles of evaluation of property and property rights, professional evaluation activities in Ukraine, state and civic regulation of such activities, as well as legal principles to ensure that a system of independent property evaluation is established in order to protect legal interests of the State and other persons and entities with respect to matters of evaluation of property and property rights and use of evaluation results.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of the Law

This Law shall apply to issues and matters that arise in the process of evaluation of property and property rights, which are owned by Ukrainian natural persons and legal entities within and without the territory of Ukraine, and property and property rights, which are owned by natural persons and legal entities from other countries within and without the territory of Ukraine, if agreements are concluded in accordance with Ukrainian law, as well as shall apply to issues and matters that relate to use of evaluation results and engagement in professional evaluation activities in Ukraine.

Article 2. Legislation on Evaluation of Property and Property Rights and Professional Evaluation Activity

Evaluations of property, property rights and professional evaluation activities shall be governed by this Law and other regulatory acts on property evaluation that are consistent herewith. If international agreements and treaties, to which binding force the Supreme Rada of Ukraine has granted its consent, contain other rules on evaluation of property and property rights and professional evaluation activity, the rules of the international agreement or treaty shall apply.

Article 3. Evaluation of Property and Property Rights

Evaluation of property and property rights (hereinafter referred to as, "Evaluation of Property") shall mean a process aimed to assess the value of property and property rights as of the date of evaluation pursuant to a procedure that is specified in regulatory acts mentioned in Article 9 of this Law (hereinafter referred to as, the "Regulatory Acts on Property Evaluation"), and shall be a result of practical work of an evaluation entity (*subjekt otsinochnoji dijalnosti*).

In this Law:

property that can be evaluated shall mean objects in material form, including land plots, buildings and structures (including inseparable parts thereof), machines, equipment, motor vehicles etc.; shares, securities; intangible assets, including items covered by intellectual property rights; integrated property complexes of all forms of ownership;

property rights that can be evaluated shall mean any rights related to property other than rights of ownership, including rights that are part of the ownership right (rights to possess, dispose and enjoy), as well as other specific rights (rights to engage in activities, rights to use of mineral resources etc.), and rights of claim.

Evaluations of Property that are accomplished by an evaluation entity, which is registered as a business entity shall be, regarded as independent Evaluations of Property.

Property evaluation procedures shall be laid down in the Regulatory Acts on Property Evaluation. A property evaluation report shall be drawn in the event that an independent Evaluation of Property is carried out. A property evaluation act shall be drawn up in the event that an independent Evaluation of Property is carried out by a government agency or a local self-government authority. Requirements for property evaluation reports and property evaluation acts shall be prescribed in accordance with Article 12 of this Law.

The date of Evaluation is a date as of which property evaluation procedures have been accomplished and the value of property has been determined. The Regulatory Acts on Property Evaluation may provide for terms of effect of property evaluation reports (property evaluation acts) from a date of Evaluation or a date on which such Evaluation was approved by (confirmed with) a client.

Instances anticipating the conduct of mandatory Property Evaluations shall be specified by this Law.

Article 4. Professional Evaluation Activities

Professional evaluation activities (hereinafter referred to as, the “Evaluation Activities”) shall mean activities of evaluators and evaluation entities recognized as such in accordance with the provisions of this Law, which activities are aimed to provide organizational, methodological and practical support of and for the conduct of Evaluations of Property, review and prepare conclusions on property value.

Evaluation Activities may be conducted in the following forms:

practical Property Evaluation activity, which consists in the practical performance of Property Evaluations and all procedures connected therewith, in accordance with the requirements prescribed by the Regulatory Acts on Property Evaluation;

consulting activity, which consists in the provision of consultations on Evaluations of Property to evaluation entities, clients, who ordered Evaluations, and (or) other persons in oral and written form;

reviewing of property evaluation reports (property evaluation acts), which consists in the critical consideration of evaluation reports (property evaluation acts) and furnishing of conclusions as to their completeness, correctness of completion and conformity of the applied property evaluation procedures with requirements of the Regulatory Acts on Property Evaluation, as provided by this Law and the Regulatory Acts on Property Evaluation;

methodical support for Evaluations of Property, which consists in the development of methodical documents on Property Evaluation and provision of explanations on their application;

training of evaluators, which involves participation in the educational process of professional training for evaluators.

Practical Property Evaluation work may be carried out exclusively by evaluation entities that are recognized as such in accordance with Article 5 of this Law.

Forensic examinations and forensic examination activities, whose essence is carrying out practical Property Evaluations, shall be carried out subject to the requirements of this Law.

Article 5. Evaluation Entities

Evaluation entities include:

business entities – natural persons who are registered as entrepreneurs pursuant to the legislatively prescribed procedures, as well as legal entities, irrespective of their organizational and legal form and forms of ownership, who are engaged in business activities, have on their staff at least one evaluator and who have received an evaluation entity’s certificate in accordance with this Law;

government agencies and local self-government authorities, which have been granted powers to carry out Evaluation activities in the course of discharge of functions of state-owned property and (or) communally owned property management and administration, and which employ evaluators.

Rights, obligations and liability of evaluation entities shall be governed by this Law and other laws.

Article 6. Evaluators

Ukrainian citizens, foreign nationals and stateless persons, who have passed a qualification exam and received an evaluator's qualification certificate in accordance with the requirements of this Law, may be evaluators.

A person, who has a non-expunged record of conviction for mercenary crimes, may not be an evaluator.

Rights, obligations and liability of evaluators shall be governed by this Law and other laws.

Chapter II

PROPERTY EVALUATION PRINCIPLES

Article 7. Instances when Property Evaluations are performed

Evaluations of Property shall be carried out in instances as are specified by Ukrainian law, international agreements and treaties, as defined by agreements, and pursuant to a request from one of the parties to an agreement and per consent of the parties.

Evaluations of Property must be obligatorily carried out in the instances of:

establishment of enterprises (business companies) with and on the basis of state-owned property or communal owned property;

reorganization, bankruptcy, liquidation of state-owned and communal enterprises, and enterprises (business companies) with a share of state-owned property (a share of communally owned property);

singling out or determination of a property share in the jointly owned property which contains a state-owned share (a share of communally owned property);

determination of the value of contributions made by participants and founders of a business company, if properties of business companies with a state-owned share (a share of communally owned property) are contributed to the said company, as well as in the event of withdrawal (expulsion) of a participant or a founder from such a company;

privatization and other disposal as provided by law, leasing, exchange, insurance of state-owned property, property in communal ownership, as well as return of such property pursuant to a court decision;

re-evaluation of capital assets for accounting purposes;

taxation of property and determination of state duty amounts pursuant to law;

pledge of property;

determination of losses or amounts of damages as and when provided by law;

in other instances pursuant to court decisions or in connection with a need to protect public interests.

Independent Evaluations of Property must be obligatorily carried out if property is pledged, state-owned or communally owned property is disposed of through methods that do not contemplate competition among buyers in the process of sale thereof, or in the event of sale to one buyer, determination of losses or amounts of damages, in the course of dispute resolution, as well as in other instances specified by law or per consent of parties.

Article 8. Restrictions on the Conduct of Property Evaluations

It shall be prohibited for evaluation entities – business entities – to carry out Evaluations of Property in the following instances:

Property Evaluations by an evaluation entity, registered as a business entity, of the property which is owned by such an evaluation entity or evaluators, who work on its staff, on the basis of ownership rights or to which property the said persons hold property rights;

Property Evaluations of property of a natural person – a client or managers of a legal entity, which is a client for such Evaluations, by an evaluator, who has family relations with the above referenced persons, or with the evaluation entity registered as a business entity, whose management has such relations;

Property Evaluations of the property of its founders (participants).

The following restrictions shall be imposed in the course of Evaluations of Property that are carried out by government agencies, including the State Property Fund, and local self-government authorities:

no exclusive right may be provided for government agencies and local self-government authorities or evaluators, who work at the government agencies and local self-government authorities, to carry out Evaluations of Property, except as otherwise provided by law;

no forms of the exclusive right may be provided for evaluation entities, which are established by the said government agencies and local self-government authorities, to carry out Evaluations of Property.

Results of a Property Evaluation carried out in violation of the above referenced restrictions shall be recognized as invalid, and shall be subject to mandatory revocation.

Evaluations of Property to be obligatorily carried out in the instances listed in Article 7 of this Law, which have been performed by entities that are not evaluation entities, shall be recognized as invalid.

Article 9. Methodical Regulation of Evaluation of Property

Property Evaluations shall be subject to methodical regulation per provisions of the Regulatory Acts on Property Evaluation: Property Evaluation rules (national standards) that are approved by the Cabinet of Ministers of Ukraine, methodologies and other regulatory acts and rules drafted subject to the requirements as are laid down in the provisions (national standards) and are approved by the Cabinet of Ministers of Ukraine or the State Property Fund of Ukraine.

Regulatory Acts on Property Evaluation shall be drafted on the basis of international standards of evaluation. The State Property Fund of Ukraine shall involve other government agencies, self-regulatory organizations of evaluators, highly renowned evaluators, and scientific and other institutions into such drafting efforts.

Regulatory acts that govern property value (price) matters must not be inconsistent with the Property Evaluation provisions (national standards).

The Property Evaluation provisions (national standards) must contain definitions of terms, including definitions of market value, evaluation principles, methodical approaches and specifics of evaluation of particular property depending on a purpose of evaluation, requirements for the text and format of property evaluation reports and procedures for reviewing such reports.

The Property Evaluation provisions (national standards) shall prescribe instances when evaluators should use methodical approaches for evaluation of the market value of property, and instances of and restrictions on the application of methodical approaches for determination of non-market kinds of property value. In such case, market value shall be determined, unless laws or regulatory acts and rules of the Cabinet of Ministers of Ukraine, an agreement for Evaluation of Property or a court order indicates the kind of value that must be determined as a result of evaluation.

The Property Evaluation provisions (national standards) shall be binding on evaluation entities in the course of their conduct of Evaluations of property of all ownership forms and in any instances such Evaluations are carried out.

In the event that joint business activities are carried out, a share of property contributed by a foreign business entity shall be evaluated in accordance with the Regulatory Acts on Property Evaluation specified by this Law.

Article 10. Grounds for the Conduct of Property Evaluations

Property Evaluations shall be carried out on the basis of an agreement between an evaluation entity, which is a business entity, and a client, who has ordered Evaluation, or on the basis of a court order assigning the conduct of a respective Property Evaluation examination.

In instances as are specified in the Regulatory Acts on Property Evaluation, which are approved by the Cabinet of Ministers of Ukraine, evaluation entities – government agencies and local self-government authorities – shall evaluate property independently on the basis of an order by their management. In such case, if the law provides that independent Evaluations of Property must be obligatorily carried out, government agencies and local self-government authorities shall act as clients ordering the conduct of such Evaluations of Property by entering into agreements with evaluation entities – business entities selected on a competitive basis under procedures provided by law.

Restrictions listed in Article 8 of this Law shall apply to government agencies and local self-government authorities when entering into agreements for Evaluation of Property. It shall be prohibited to impose other restrictions on participation of evaluation entities in the conduct of Property Evaluations, except for those restrictions as are laid down in conditions of competitive selection in accordance with law.

Article 11. Agreement for Evaluation of Property

An agreement for Evaluation of Property shall be concluded in writing and may be bilateral or multilateral. If a multilateral agreement is entered into, a payer entity or person may be a party to such an agreement in addition to a client ordering an Evaluation, if services of the evaluation entity are paid by the entity or person other than the client. In such case, restrictions listed in Article 8 of this Law shall apply to the payer as a party to the agreement.

Clients of Property Evaluations may be persons who legally own or possess property, as well as persons who order Property Evaluations per assignment from the said persons. The Clients of Property Evaluations must ensure that an evaluation entity has access to the property to be evaluated on legal grounds, receives the necessary and true information on the said property for its evaluation.

Parties to an agreement for Evaluation of Property (client, payer) shall have a right of free choice of an evaluation entity registered as a business entity, provided that the requirements prescribed in Articles 8 and 9 of this Law are complied with.

The essential conditions of an agreement for Evaluation of Property shall be as follows:

specification of the property to be evaluated;

the objective of the Evaluation;

the type of property value to be determined;

the date of evaluation;

the term within which Property Evaluation work should be performed;

the amount and procedures of payment for the work;

rights and obligations of the parties to the agreement;

conditions for ensuring the confidentiality of evaluation results and information used in the course of Evaluation;

liability of the parties for non-performance or undue performance of the terms and conditions of the agreement;

procedures for resolution of disputes that may arise in the course of Evaluation and acceptance by the client of evaluation results.

Other essential conditions in the agreement may be contemplated by law or per consent of parties to such agreement.

Fee amounts and procedures of payment for Property Evaluation work shall be agreed by parties or, in case of selection of an evaluation entity on a competitive basis – pursuant to competition results. It shall be prohibited to indicate in an agreement the amount of a fee for the work as a percentage of the value of the property to be evaluated. Rights, obligations and liability of an evaluator (an evaluation entity), who carries out an examination on the basis of a court order (decree) appointing such examination, shall be governed by Ukrainian law on forensic examinations and this Law.

Article 12. Property Evaluation Report (Property Evaluation Act)

A property evaluation report is a document that contains conclusions on the value of property and confirms property evaluation procedures accomplished by an evaluation entity registered as a business entity in accordance with the agreement. The report shall be signed by the evaluators, who have directly evaluated the property, and shall be sealed with the stamp and signed by the manager of the evaluation entity.

Requirements for the text and format of property evaluation reports, procedures for their completion and reviewing shall be laid down in the Property Evaluation provisions (national standards). The text of a property evaluation report must contain sections that disclose the contents of accomplished procedures and the used regulatory framework for Property Evaluation.

A property evaluation act is a document that contains conclusions on the value of property and confirms property evaluation procedures accomplished by an evaluation entity – a government agency or local self-government authority – independently. If property evaluation procedures applicable to the preparation of property evaluation acts anticipate that an evaluation entity registered as a business entity should conduct a preliminary Evaluation of Property in full or in part, a report on evaluation of such property must be attached to the property evaluation act. The property evaluation act shall be approved by the head of the government agency or local self-government authority.

The text, form, preparation procedures, approval and term of effect of property evaluation acts shall be prescribed by the Cabinet of Ministers of Ukraine.

Article 13. Reviewing of Property Evaluation Reports (Property Evaluation Acts)

A property evaluation report (property evaluation act) shall be reviewed at the request of a person who uses a Property Evaluation and its results for decision making purposes, including at the request of clients (payers) of Property Evaluations, government agencies and local self-government authorities, courts and other persons who have interests in the unbiased and critical consideration of Property Evaluations, as well as through an evaluation entity's own initiative. The ground for reviewing shall be a written request submitted to persons, who are entitled, under this Article, to review property evaluation reports (property evaluation acts).

Property evaluation reports (property evaluation acts) may be reviewed by an evaluator, who has at least 2-year experience of practical Property Evaluation work, expert boards established on an *ad hoc* basis by self-regulatory organizations of evaluators in order to control the quality of Property Evaluations that are carried by evaluators – members of the self-regulatory organization, and evaluators, who have at least 2-year experience of practical Property Evaluation work and are employed by the State Property Fund and other agencies and authorities mentioned in Article 5 of this Law.

It shall be mandatory to review a property evaluation report (property evaluation act), if the concerned Property Evaluation is confirmed, approved or accepted by a government agency or a local self-government authority.

If a written request for reviewing a property evaluation report (property evaluation act) contains a demand to provide a conclusion on the value of property, such demand shall be satisfied through the conduct of Property Evaluation. In such case, a reviewer shall carry out an Evaluation of Property or cause an Evaluation of Property to be carried out pursuant to the procedures as are specified in the Regulatory Acts on Property Evaluation.

Property evaluation reports (property evaluation acts) shall be reviewed by an evaluator, who is employed by a government agency, per requests filed with government agencies or in connection with the fulfillment of his official responsibilities, within the limits of his powers as are laid down in a job description. If a request of a government agency contemplates providing a conclusion on the value of property and preparation of such a conclusion requires an independent Evaluation, government agencies shall cause such evaluation to be carried out pursuant to the procedures specified in this Law.

In other cases property evaluation reports (property evaluation acts) shall be reviewed on a paid basis.

Chapter III

ACQUISITION OF THE RIGHT TO ENGAGE IN EVALUATION ACTIVITIES

Article 14. Professional Training of Evaluators

Professional training of evaluators shall be carried out by educational institutions that have entered into agreements for cooperation in the professional training of evaluators with the State Property Fund of Ukraine. The State Property Fund of Ukraine must promote growth of competition among educational institutions that provide professional training for evaluators.

Professional training of evaluators shall consist of studies under basic training programs and qualification improvement programs. General requirements for the contents of training programs shall be subject to mandatory approval by the Supervisory Board for Evaluation Activity Affairs. The State Property Fund of Ukraine and self-regulatory organizations of evaluators shall jointly control the quality of professional training of evaluators.

At least once every two years evaluators shall be obligated to improve their qualifications under a qualification improvement program. Failing to comply with this requirement shall be a ground for terminating an evaluator's qualification certificate.

Article 15. Evaluator's Qualification Certificate

A qualification certificate of an evaluator (hereinafter referred to as, the Qualification Certificate) is a document that confirms the evaluator's sufficient professional level of training under a basic training program to independently carry out Evaluations of Property. Forms of evaluators' Qualification Certificates shall be specified by the State Property Fund of Ukraine. Natural persons, who have a complete higher education, have undergone training under a basic training program and a 1-year internship at an evaluation entity under guidance of an evaluator who has at least 2-year experience of practical Property Evaluation work, have received a positive recommendation and have successfully passed a qualification exam, shall be eligible to receive Qualification Certificates.

The Qualification Certificates confirm evaluators' professional training in the following areas of Property Evaluation pursuant to the basic training programs: evaluation of objects in material form; evaluation of integrated property complexes, property shares, securities, property rights and intangible assets, including rights to intellectual property items; evaluation of land plots.

Qualification improvement shall be undertaken with respect to areas indicated in an evaluator's Qualification Certificate, and upon completion of which qualification improvement there shall be issued a qualification improvement statement that will be an inseparable part of the Qualification Certificate.

A Qualification Certificate shall be issued by the State Property Fund of Ukraine jointly with an educational institution, wherein training was provided and a qualification exam was passed, on the basis of a respective decision of the Examination Commission. A fee in the amount of one non-taxed minimum citizens' income for issuing a Qualification Certificate shall be charged. The said fee shall be directed to cover organizational expenses related to the issuance of the Qualification Certificate. The Qualification Certificate shall indicate the name of the government agency and the name of the education institution that issued such Certificate, the date of issuance, the number of the Certificate, the last name, first name and patronymic of the natural person who is issued the Certificate, the area of the basic training program, in accordance with which the evaluator's professional level is confirmed and authorization is granted to carry out Property Evaluations. The Qualification Certificate shall be issued for an indefinite term in the event that all requirements laid down in this Law are complied with.

A Qualification Certificate shall be issued within two weeks after a natural person has filed the following documents with the State Property Fund of Ukraine: an application for a Qualification Certificate (the model application is determined by the State Property Fund of Ukraine), a copy of the passport, a copy of the document confirming availability of a higher education, a payment document confirming payment of a fee for issuance of the Qualification Certificate.

Article 16. Procedures for Adoption of Decisions to issue, revoke and suspend Qualification Certificates

A decision to issue a qualification certificate shall be adopted by an Examination Commission whose members are approved by the State Property Fund of Ukraine and chosen from among the Fund's representatives, representatives from other government agencies, whose powers include implementation of state policies in the area of Property Evaluation and who have the necessary level of training in Property Evaluation matters, and representatives, who are delegated by self-regulatory organizations of evaluators. In such case, representatives of the self-regulatory organizations of evaluators must account for not less than two thirds of the membership of the Examination Commission, proceeding from a principle of equal delegation of representatives from each of such self-regulatory organizations of evaluators. The Examination Commission shall act within and on the basis of the educational institution.

A decision to revoke a Qualification Certificate (to annul a Qualification Certificate) shall be adopted by the Examination Commission upon written submissions from interested persons on the basis of the following grounds: multiple gross violations by an evaluator of Regulatory Acts on Property Evaluation; a court decision concerning facts of an unprofessional Property Evaluation carried out by an evaluator; an evaluator having a non-expunged record of conviction for mercenary crimes; uncovering of the wrongful issuance of a Qualification Certificate; uncovering of an evaluator's breach of restrictions laid down in Article 8 of this Law.

The State Property Fund of Ukraine shall provide notice of the Examination Commission's decision to revoke a Qualification Certificate to an evaluator in writing within two weeks upon receipt of respective minutes of the Examination Commission meeting.

A decision to revoke an evaluator's Qualification Certificate may be challenged in court.

A decision to issue a Qualification Certificate to an evaluator, who had his Certificate revoked pursuant to this Law, shall be adopted by the Examination Commission not earlier than in one year following the date of revocation pursuant to the procedures specified for issuance of Qualification Certificates.

A decision to suspend a Qualification Certificate shall be adopted by the State Property Fund of Ukraine in the event of an evaluator's failure to comply with the requirements of Part 3 in Article 14 of this Law, his willful furnishing of untrue data that has resulted in the distortion of information about the evaluator in the State Registry of Evaluators. The Qualification Certificate will be renewed by the State Property Fund of Ukraine within one week following the evaluator's compliance with given observations and remarks.

Decisions of the Examination Commission shall be in the form of minutes. Working procedures of the Examination Commission shall be prescribed by the State Property Fund of Ukraine.

It shall be prohibited for a natural person, who has not received a Qualification Certificate, whose Qualification Certificate has been revoked or suspended, to carry out Property Evaluations. The Property Evaluation that has been signed by such a person shall be deemed invalid.

The State Property Fund of Ukraine may refuse to issue a Qualification Certificate if a natural person has failed to submit at least one of the documents that are listed in Part 5 in Article 15 of this Law or if at least one of the submitted documents is invalid or untrue, or if untrue data have been willfully indicated therein.

Article 17. State Registry of Evaluators

The State Property Fund of Ukraine shall maintain the State Registry of Evaluators who have received Qualification Certificates.

The following information about evaluators shall be entered in the State Registry of Evaluators: the last name, first name and patronymics of an evaluator, the date of issuance and number of the Qualification Certificate, the name

of an educational institution that trained the evaluator, the date and number of minutes containing a decision of the Examination Commission to issue the Qualification Certificate, Property Evaluation areas specified in the Qualification Certificate, information about qualification improvement course in the said areas, information about suspension or revocation of the Qualification Certificate, the evaluator's place of work.

Procedures under which evaluators will furnish information to the State Registry of Evaluators shall be prescribed by the State Property Fund of Ukraine.

Evaluators shall bear liability for the authenticity of information, which is furnished to the State Registry of Evaluators, as provided this Law.

Article 18. Certificate of an Evaluation Entity

A certificate of an evaluation entity registered as a business entity (hereinafter referred to as, the "Certificate") is a document that evidences the evaluation entity's eligibility to be recorded in the State Registry of Evaluation Entities which carry out evaluation activities in the form of practical Property Evaluation work and which are recognized as evaluation entities in Property Evaluation areas that are indicated therein.

Certificates shall be issued by the State Property Fund of Ukraine pursuant to procedures as are laid down in this Law. The form of Certificates shall be prescribed by the said Fund. A Certificate shall indicate the name of the issuing government agency, the name of the evaluation entity registered as a business entity, its requisite details, the code of the Single State Registry of Enterprises and Organizations of Ukraine (EDRPOU), the date of issuance and the term of effect, Property Evaluation areas in which practical work is permitted. The Certificate shall be signed by the Head of the State Property Fund of Ukraine and certified with the stamp. The Certificate shall be issued for a term of three years and may be annulled on grounds that are listed in Article 20 of this Law.

A fee in the amount of three non-taxed minimum citizens' incomes shall be charged for issuing a Certificate, which fee shall be directed to the State Budget of Ukraine.

Property Evaluations carried out by an evaluation entity registered as a business entity without a valid Certificate shall be invalid.

The government agencies and local self-government authorities specified in Article 5 of this Law shall be recognized as evaluation entities in accordance with the provisions that govern their activity.

Article 19. Procedures for Issuance of an Evaluation Entity's Certificate

The State Property Fund of Ukraine shall adopt decisions to issue Certificates.

A business entity shall submit the following documents to the State Property Fund to consider a matter of Certificate issuance: an application for a Certificate in form as prescribed by the State Property Fund of Ukraine; a notarized copy of the constituent document (for legal entities) or a state registration certificate for a natural person registered as an entrepreneur; a statement on evaluators, who work on its staff, in form as prescribed by the State Property Fund of Ukraine; notarized copies of Qualification Certificates of the evaluators listed in the statement. The State Property Fund of Ukraine shall review and verify the documents submitted by the business entity within a time period that does not exceed thirty days from the date of submission thereof.

The State Property Fund of Ukraine shall refuse to issue Certificates in the following cases:

failure of a business entity to submit at least one of the documents;

invalidity or inauthenticity of at least one of the submitted documents or willful furnishing of untrue data therein;

liquidation of a business entity;

uncovering of violations of Article 8 of this Law at the time when the previous Certificate was in effect or in the course of review of the documents and adoption of a decision to issue the Certificate;

entry into force of two and more court decisions, whereby claims have been satisfied against the evaluation entity and evaluators, who work at such entity, in connection with their conduct of the low-quality Evaluation of Property;

presence among evaluators, who are indicated the statement, of evaluators whose Qualification Certificates are indicated in statements of other business entities that filed an application for a Certificate earlier, or whose Qualification Certificates have been suspended or annulled in accordance with Article 16 of this Law;

absence on a business entity's staff of at least one evaluator, who has a Qualification Certificate in Property Evaluation areas, for which the Certificate is issued;

holding by a business entity of a license to conduct an activity which, pursuant to law, is exclusive.

A Certificate shall be issued within two weeks by the State Property Fund of Ukraine on the basis of results of review and verification of the documents submitted by a business entity. The State Property Fund of Ukraine shall maintain the State Registry of Evaluation Entities that have been issued Certificates.

Within one week, evaluation entities – business entities – shall be obligated to inform the State Property Fund of Ukraine in writing about changes in an entity's staff of evaluators as from the time of the entry into force of the Certificate, its legal status, other essential information on whose basis a decision is adopted to issue or annul Certificates in accordance with this Law.

Disputable issues regarding a refusal to issue a Certificate shall be resolved by the Supervisory Board for Evaluation Activity Affairs upon filing of a respective application by an evaluation entity registered as a business entity.

A decision refusing issuance of a Certificate may be challenged in court.

Article 20. Annulment of an Evaluation Entity's Certificate

A Certificate may be annulled by the State Property Fund of Ukraine exclusively on the following grounds:

on the basis of a conclusion of the Supervisory Board for Evaluation Activity Affairs if there are violations of requirements of this Law and other Regulatory Acts on Property Evaluation, which violations have been uncovered through reviewing and which violations have resulted in recognizing the Evaluation of Property, carried out by an evaluation entity registered as a business entity or by evaluators who work on its staff, to be of poor quality;

lay-off of all evaluators, who have been indicated as employees of the business entity at the time a decision was adopted to issue the Certificate, or revocation or suspension of their Qualification Certificates;

entry into force of two and more court decisions, whereby claims have been satisfied against evaluators (evaluation entity that is registered as a business entity) in connection with their conduct of the low-quality Property Evaluation;

uncovering of violations of Article 8 of this Law committed by evaluators (evaluation entity that is registered as a business entity);

liquidation of an evaluation entity registered as a business entity that has received a Certificate;

absence on the evaluation entity's staff of at least one evaluator, who has a Qualification Certificate in Property Evaluation areas that are specified in the Certificate;

failure to inform the State Property Fund of Ukraine about circumstances specified in Part 5 of Article 19 of this Law, which are of essential importance for purposes of evaluation activity control.

Certificates shall be renewed pursuant to the procedures prescribed by this Law for their issuance.

Procedures governing the consideration of matters involving Certificate annulments and renewals shall be prescribed by the State Property Fund of Ukraine.

Article 21. Supervisory Board for Evaluation Activity Affairs

The Supervisory Board for Evaluation Activity Affairs (hereinafter referred to as, the “Supervisory Board”) shall be established for purposes of collegial resolution of matters involving issuance to evaluation entities, which are business entities, of Certificates, Certificate annulments, assurance of transparency in the state regulation of evaluation activities, improvement of the professional level of evaluation entities. The Supervisory Board shall be formed by the State Property Fund of Ukraine from among its representatives, representatives delegated by other government agencies, whose powers include implementation of state policies in the area of Property Evaluation and who have the necessary level of training in Property Evaluation matters, and representatives from self-regulatory organizations of evaluators, who have been delegated pursuant to procedures laid down by such organizations.

The personal composition of the Supervisory Board shall contemplate equal representation of government agencies and self-regulatory organizations of evaluators.

The Supervisory Board shall be a permanently acting body.

The powers of the Supervisory Board shall include:

resolution of disputable matters related to issuance or annulment of Certificates;

approval of general requirements for training programs designed to train evaluators and improve their qualifications;

review and submission of proposals regarding complaints against evaluating activities of evaluation entities – business entities, including those that have appeared in the course of reviewing of property evaluation reports;

confirmation of Regulatory Acts on Property Evaluation and certificate issuance procedures;

provision of recommendations as to improvements of professional training of evaluators.

Working procedures of the Supervisory Board shall be determined by the Supervisory Board, and shall be approved by the State Property Fund of Ukraine.

Article 22. State Registry of Evaluation Entities

The State Property Fund of Ukraine shall maintain the State Registry of Evaluation Entities that have received Certificates.

The State Registry of Evaluation Entities shall contain information on evaluation entities, which have received Certificates, dates of their issuance, Property Evaluation areas that are indicated in the Certificates, the term of Certificates, the address of the entities, the basic information about evaluators employed by such entities and their qualifications, and other essential information about their experience and practical Property Evaluation work.

The State Registry of Evaluation Entities shall be provided at the request of government agencies and local self-government authorities pursuant to procedures provided by law.

Procedures under which extracts from the State Registry of Evaluation Entities will be issued to business entities and natural persons shall be prescribed by the State Property Fund of Ukraine.

Chapter IV

STATE REGULATION OF EVALUATION ACTIVITIES

Article 23. Scope and Areas of State Regulation of Evaluation Activities

State regulation of evaluation activities is intended to ensure the formation and development of a Property Evaluation framework in Ukraine, impartiality and legality of conducted Property Evaluations, compliance of Property Evaluations with the Regulatory Acts on Property Evaluation, introduction into evaluation activity practices of

international norms and rules on Property Evaluation, securing of public interests in Property Evaluation matters, promotion of competition among the evaluation entities – business entities and educational institutions that carry out professional training of evaluators, accomplishment of Property Evaluations by government agencies and local self-government authorities in accordance with law.

The main areas of state regulation of evaluation activities shall be as follows:

control whether the integrity of the regulatory framework of and organizational support for Evaluations of Property is observed;

enforcement of rules and levels of professional training for evaluators, and control over the compliance therewith;

control whether evaluators and evaluation entities comply with conditions that are prescribed for the conduct of evaluation activities;

organizational support of and for activities of the Supervisory Board and the Examination Commission;

issuance of Qualification Certificates and Certificates;

recognition of the status of self-regulatory organizations of evaluators and control over their compliance with rules for civic regulation of Property Evaluations as specified in this Law, assurance of their broad involvement into regulation of evaluation activities;

control whether laws are complied with by the evaluation entities and other subjects in the course of Property Evaluation;

promotion of enactment of common norms and rules on Property Evaluation in Ukraine, which norms and rules are based on international norms and rules;

maintenance of the State Registry of Evaluators and the State Registry of Evaluation Entities;

other areas of activity aimed to discharge functions concerned with state regulation of evaluation activities.

Article 24. Government Agency that regulates Evaluation Activities

The State Property Fund of Ukraine is a government agency that regulates evaluation activities in Ukraine.

The Cabinet of Ministers of Ukraine shall discharge powers, which are defined by the Constitution of Ukraine, this Law and other regulatory acts, with respect to matters relating to evaluation activities.

Other government agencies and local self-government authorities shall discharge their powers with respect to Property Evaluation matters in accordance with law.

The State Property Fund of Ukraine shall ensure that the public is broadly informed about matters relating to evaluation activities, the conditions and specifics of price-setting for property and property rights in Ukraine.

Article 25. Liability for Violations of the Legislation on Evaluation of Property and Property Rights and Evaluation Activities

Local self-government authorities shall be obligated to comply with the requirements of this Law in the part relating to property and property rights in communal ownership, including obligations to ensure the integrity of regulatory requirements specified herein that are applicable to the conduct of Evaluations of the said property, and to promote competition among evaluation entities that are business entities.

Officers, officials, citizens, legal entities, evaluators and evaluation entities who are guilty of violations of the legislation on evaluation activities shall be held liable pursuant to this Law and other laws.

Chapter V**SELF-REGULATORY ORGANIZATIONS OF EVALUATORS*****Article 26. Definition of a Self-Regulatory Organization of Evaluators***

Self-regulatory organizations of evaluators are Ukrainian national non-government organizations that unite natural persons, who are recognized as evaluators under procedures laid down in this Law, have obtained their status in accordance with the requirements of this Law and discharge powers concerned with civic regulation of evaluation activities.

Establishment of and working procedures for self-regulatory organizations of evaluators shall be governed by the legislation on citizens' associations, subject to specific provisions contained in this Law.

The self-regulatory organizations of evaluators shall be legal entities that operate on the basis of self-governance and engage in not-for-profit activities.

Article 27. Procedures for Recognition of Status of a Self-Regulatory Organization of Evaluators

Ukrainian national non-government organizations of natural persons recognized as evaluators in accordance with this Law, which organizations apply for recognition of their status as a self-regulatory organization of evaluators, must comply with the following criteria:

the number of evaluators must be at least 250 persons;

90% of the members of an organization's total membership number must carry out evaluation activities in any form as is specified in Article 4 of this Law at evaluation entities;

established procedures are available for internal certification of its members in order to control the quality of Property Evaluations that are carried out by such members.

Procedures under which the status of self-regulatory organizations will be recognized by the State Property Fund of Ukraine shall be prescribed by the Cabinet of Ministers of Ukraine.

Article 28. Powers of Self-Regulatory Organizations of Evaluators

Self-regulatory organizations of evaluators shall discharge the following powers concerned with civic regulation of evaluation activities:

control of compliance with the Property Evaluation provisions (national standards) and other Regulatory Acts on Property Evaluation, assurance of adequate quality of Property Evaluations that are carried out by evaluators who are their members;

reviewing of property evaluation reports resulting from Property Evaluations carried out by evaluators who are members of a self-regulatory organization of evaluators, at the request of other organizations, citizens, legal entities in accordance with the requirements laid down in the Property Evaluation provisions (national standards) and under procedures specified by the self-regulatory organization;

participation in the drafting of Regulatory Acts on Property Evaluation;

participation in the professional training of evaluators;

participation in the Examination Commission and the Supervisory Board;

protection of its members in matters relating to court and pre-court resolution of disputes involving Property Evaluations, in accordance with law;

promotion of competition among evaluators;

improvement of the professional level of members of the self-regulatory organization by way of internal certification pursuant to a procedure established by the self-regulatory organization;

promotion of development of information technologies for Property Evaluations, broad informing of the public about specifics of price setting for property and property rights;

prescription of other requirements whereby members are obliged to carry out Property Evaluations diligently, as well as assurance that such members comply with the requirements of this Law and Regulatory Acts on Property Evaluation.

Chapter VI

RIGHTS, OBLIGATIONS AND LIABILITY OF EVALUATORS AND EVALUATION ENTITIES

Article 29. Rights of Evaluators

Evaluators shall be entitled:

to have access to the property that is being evaluated, documentation and other information, which are necessary or essential for Property Evaluations;

to obtain explanations and additional data, which are necessary for the conduct of Property Evaluations and preparation of property evaluation reports, from clients of Property Evaluations and other persons with respect to the information that contains state or commercial secrets, provided that an evaluator has an applicable permit or an information confidentiality agreement;

to refuse to carry out an Evaluation of Property in the event that circumstances are discovered that interfere with the conduct of an impartial and objective Evaluation, including any forms of coercion;

to insure its civil liability in connection with professional evaluation activities;

to be personally present at an Examination Commission meeting reviewing the matter of revocation of an evaluator's Qualification Certificate;

to challenge actions of officials of government agencies and local self-government authorities, decisions of the Examination Commission and the Supervisory Board through court proceedings.

Article 30. Rights of Evaluation Entities

Evaluation entities shall be entitled:

to have access to the property that is being evaluated, documentation and other information, which are necessary or essential for Property Evaluations;

to obtain explanations and additional data, which are necessary for the conduct of Evaluations of property and property rights and preparation of property evaluation reports, from clients of Property Evaluations and other persons with respect to the information that contains state or commercial secrets, provided that an evaluation entity (evaluators who work on its staff) has an applicable permit or an information confidentiality agreement;

to refuse to carry out an Evaluation of Property in the event that circumstances are discovered that interfere with the conduct of an impartial and objective Evaluation, including any forms of coercion;

to insure its liability before third persons in connection with evaluation activities;

to additionally involve other evaluators, other specialists as well as business entities to participate in the conduct of Property Evaluations;

to ensure that its representatives are present at a Supervisory Board meeting reviewing the matter of annulment of the evaluation entity's Certificate;

to challenge actions of officials of government agencies and local self-government authorities, decisions of the Supervisory Board and the Examination Commission through court proceedings.

Article 31. Obligations of Evaluators and Evaluation Entities

Evaluators and evaluation entities shall be obligated:

to comply with the requirements of this Law and Regulatory Acts on Property Evaluation in the course of Property Evaluation activities;

to ensure the impartiality and objectivity of Property Evaluations, notify a client that it is impossible to carry out an impartial and objective Evaluation of Property in connection with the arising of circumstances interfering therewith;

to ensure the storage of documents that have been received from a client and other persons in the course of conducting Property Evaluations;

to ensure the confidentiality of information received in the course of conducting Property Evaluations, in accordance with law;

to fulfill such other obligations as are provided by law.

Article 32. Liability of Evaluators and Evaluation Entities

Evaluators and evaluation entities shall bear liability for violations of requirements of this Law pursuant to procedures laid down by laws.

Evaluators and evaluation entities – business entities shall bear liability for non-performance or undue performance of the terms and conditions of an agreement, in particular for the inauthenticity or partiality of Property Evaluation, in accordance with the terms and conditions of the agreement and as provided by law.

Government agencies, local self-government authorities and evaluators, who work on their staff, shall bear liability in accordance with laws, within the limits of provisions and job descriptions regulating their activities.

Article 33. Dispute Resolution

Disputes arising in relation to Evaluations of property and property rights shall be resolved in court.

Chapter VII

FINAL PROVISIONS

1. This Law shall enter into force on the date of publication hereof.

2. The Cabinet of Ministers of Ukraine shall:

within 3 months following the day of the entry into force of this Law:

submit proposals regarding the bringing of Ukrainian laws in conformity with this Law to the Supreme Rada of Ukraine for consideration;

bring its regulatory acts and rules in conformity with this Law;

ensure that ministries and other central agencies of executive power bring their regulatory acts and rules in conformity with this Law.

3. The Cabinet of Ministers of Ukraine and the State Property Fund of Ukraine shall ensure that regulatory acts specified in this Law are enacted.

4. Regulatory acts that govern the conduct of expert Evaluations of Property shall be in effect before their amendment.

5. Natural persons who have received qualification documents of evaluators prior to the entry into force of this Law, with terms of effect of such documents expiring not earlier than 31 December 2001, shall be entitled, within one year, to register in the State Registry of Evaluators pursuant to procedures as are prescribed by the State Property Fund of Ukraine. Qualification documents of evaluators issued to natural persons pursuant to the procedures that were in effect prior to the entry into force of this Law, who have not registered within the specified time in the State Registry of Evaluators, shall be deemed invalid.

6. Agreements for Evaluation of Property entered into by business entities with the State Property Fund of Ukraine shall remain effective until expiration of their term.

L. Kuchma
President of Ukraine

city of Kyiv

LAW OF UKRAINE

ON EVALUATION OF PROPERTY AND PROPERTY RIGHTS AND PROFESSIONAL EVALUATION ACTIVITY IN UKRAINE

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