

Pre-emption Act (SFS 1967:868)

(with amendments up to and including SFS 2005:414)

Section 1. A municipality has a right of pre-emption under this Act in connection with a sale comprising

1. real property which, in view of future development, is required for urban development or an arrangement connected therewith,
2. real property which needs to be refurbished or needs to be rebuilt in order to provide for housing supply or for some purpose connected with the same,
3. real property which is needed in order to provide for a substantial need of land or facility for sport or outdoor recreation,
4. real property with a building which should be preserved because it is valuable from a cultural or environmental point of view,
5. real property on which buildings have been constructed which need to be used as housing for permanent use and which is situated in an area where there is considerable demand for secondary homes.

A right of pre-emption also exists in connection with the sale of site leasehold in such property as is referred to in subsection one. Statutory provisions concerning real property or a property unit shall, unless otherwise prescribed, also apply where relevant to site leasehold. Provisions concerning registration of ownership shall, when a sale involves site leasehold, refer instead to registration of the acquisition of site leasehold.

A right of pre-emption as referred to in point 5 of subsection one exists in the municipalities enumerated in a schedule to this Act. More detailed provisions concerning the areas of the municipalities in which the right of pre-emption exists are issued by the Government.

Section 2. A right of pre-emption may be exercised if such property as is referred to in Section 1 is wholly or partly situated within the municipality's own area. If the property is partly situated in another municipality, a right of pre-emption may be exercised only if that municipality consents to the pre-emption.

Section 3. A right of pre-emption may not be exercised if

1. the sale refers solely to a property unit having a curtilage of less than 3,000 square metres and developed with free-standing single-family dwellings or terrace or linked houses if the house is equipped as a permanent home or a home for recreational purposes for not more than two families,
2. the State is the seller,
3. the State or a county council is the buyer,
4. the buyer is the spouse of the seller, nor if the buyer or, when husband and wife are joint purchasers, either of them is a descendant of the seller,
5. the sale is made by executive auction,
6. the sale refers to only a share of a property unit and the buyer already owns another share in the property unit and that share has been acquired other than by gift.

Point 1 of subsection one applies, *mutatis mutandis*, if the sale refers to part of a property unit. The question of whether a right of pre-emption may be exercised shall then be judged as if the purchase referred to the undivided property unit. If registration

of ownership is applied for before a right of pre-emption is exercised, the question shall instead be judged with reference to the part, if it is parcelled out, or, when the sale concerns an area of a real property unit, a property formation order has been made.

Point 1 of subsection one does not apply within areas referred to in Section 1 (3).

Pre-emption contrary to the provisions of this section is of no effect.

Section 4. If the municipality has declared that it refrains from exercising a right of pre-emption with regard to an intended sale within its area, pre-emption may not take place on account of the sale.

Section 5. The right of pre-emption means that the municipality may acquire the property to which the purchase refers from the seller on the terms agreed on between the latter and the buyer. The municipal acquisition is called pre-emption.

It is the duty of the seller, when called upon to do so by the municipality, to explain the provisions which apply to the sale and which are not apparent from the document of sale. A provision which was neither known nor ought to have been known to the municipality when the right of pre-emption was exercised may be asserted against the municipality only if there is special cause for doing so.

Conditions agreed on between the seller and buyer may be adjusted if this is inevitable, having regard to the buyer's undertaking towards the seller. The municipality shall compensate the seller for his loss on account of the adjustment.

If the municipality does not file proceedings for adjustment within three months of the pre-emption being completed, the right of action will be lost. If, however, when the pre-emption was exercised, the municipality was not aware of the provision occasioning the adjustment, the time shall be counted from the day on which it was determined that the provision may be asserted against the municipality.

Section 6. Personal property included in the pre-emption shall be excluded from the same if the purchaser so demands. At the instance of the municipality, personal property shall be excluded if the property can be detached from the residue without inconvenience. If property is excluded, the buyer shall pay as much of the purchase money as refers to what is excluded and the municipality shall pay the remainder. If the buyer or the municipality does not file proceedings for exclusion within three months of the pre-emption being completed, the right of action will be lost.

Proceedings by the buyer for the exclusion of personal property from the pre-emption are filed against the municipality. Proceedings by the municipality are filed against the buyer. The court shall notify the seller of the judicial proceedings. The seller is entitled to plead in the case insofar as his rights are affected. If the exclusion suit is allowed, the court shall establish what the buyer and the municipality have to pay to the seller.

Section 7. The right of pre-emption is exercised by the municipality, within a time indicated in subsection two, notifying seller and buyer of its decisions to exercise the right of pre-emption and giving notice of this decision to the land registration authority, at the same time producing evidence of the notices. If the decision refers to a property unit within the area of another municipality, the aforesaid concerning notification of seller and buyer shall also apply to the other municipality. The decision

shall be noted in the land register section of the Real Property Register for each property unit included in the sale.

The right of pre-emption shall be exercised, at the latest, on the next title registration day after three months from registration of ownership being applied for with respect to the buyer's acquisition or, if an acquisition permit is required under the Land Acquisition Act (1979:230), from the time when a permit was applied for. If, before registration of ownership or a permit has been applied for, the seller or buyer gives notice of the sale to the municipality or municipalities in which the real property is located, at the same time tendering an authenticated copy of the document of sale, the time shall instead be counted from such notice being received by the municipality. If the municipality is to be notified of the sale under Section 3 (1) of the Acquisition of Rental Properties Etc. Act (1975:1132), the time shall always be counted from the municipality receiving notice of the sale. If no copy of the document of sale was appended to the application or notice, the time shall not begin to run until such document has been received by the municipality.

If the right of pre-emption is not exercised within the allotted time, it will be lost.

Section 8. Any action against a municipal decision concerning pre-emption is adjudicated as if the decision had concerned acquisition following voluntary transfer.

Section 9. It is the duty of a municipality which has exercised a right of pre-emption to apply for a permit for the pre-emption if the seller or buyer contests the right of pre-emption in such a way and within such time as indicated in subsection two. A question concerning a pre-emption permit shall be adjudicated by the Government. A permit shall be refused if

1. the property referred to in Section 1 is not included in the sale or is included in it but is not situated within the municipality's own area,
2. the right of pre-emption has been exercised as provided in Section 1 (1), points 1-4 and the sale refers only to property indicated in Section 3 (1) point 1,
3. the right of pre-emption has been exercised as provided in Section 1 (5) and the purchaser establishes the probability of the property being used as permanent accommodation,
4. it is oppressive for pre-emption to take place, in view of the relation between seller and buyer or the conditions of or circumstances attending the sale.

Notice of contestation as referred to in subsection one shall be given to the land registration authority within one month from the right of pre-emption being exercised, for entry in the land register section of the Real Property Register. The land registration authority shall notify the municipality of the contestation without delay. The municipality's application for a permit for the pre-emption shall reach the Government within one month of the contestation being noted. If a permit is not applied for in due time, the pre-emption shall be of no effect.

When a municipality exercises a right of pre-emption with regard to property in another municipality, the municipality where the property is situated may call upon the Government to adjudicate the question of a permit for the pre-emption. An application for such adjudication shall have reached the Government within one month of the right of pre-emption being exercised. A permit for the pre-emption shall be refused if the right of pre-emption may not be exercised under Section 2.

Section 10. After the municipal decision concerning pre-emption has acquired force of law and a permit for the pre-emption has been granted or the time limit for contestation of the right of pre-emption as provided in Section 9 (1) or for application as provided in Section 9 (3) has expired without notice of contestation having been given or an application made, the pre-emption is completed.

Section 11. When pre-emption has been completed, the property is deemed to have passed from the seller to the municipality at the time of the sale by voluntary transfer on the conditions referred to in Section 5. The following, however, shall then be observed.

If, before the pre-emption was completed, the buyer discharged an obligation based on the purchase, the municipality may claim credit for this in relation to the seller.

After the right of pre-emption has been exercised, the seller may not effectively against the municipality cancel the purchase on the grounds of the buyer having defaulted on an obligation which should have been discharged before the point in time when the pre-emption was completed.

In the application concerning pre-emption of provisions applying concerning the right of a buyer of real property to cancel the purchase, demand a deduction from the purchase price or demand compensation for damage, the question of the buyer's good faith and of what he has assumed in connection with the purchase over and above the content of the document of sale shall be referred to the municipality and judged according to the point in time at which the right of pre-emption was exercised.

Section 12. A purchase of real property is dependent for its validity on pre-emption not taking place.

If registration of ownership for the buyer has been granted contrary to Chap. 20, Section 7, paragraph 12 of the Land Code, the right of pre-emption is lost. If pre-emption has taken place, it is of no effect. The same applies, *mutatis mutandis*, when an acquisition permit has been granted contrary to Section 10 (2) of the Land Acquisition Act (1979:230) or contrary to Section 16 b (4) of the Regional Tenancies Tribunals and Regional Rent Tribunals Act (1973:188).

When the pre-emption has been completed, the buyer shall surrender to the municipality the documents concerning the property unit which the buyer has in his possession and which are of importance to the municipality as owner of the property unit.

Section 13. When the pre-emption has been completed, the municipality shall reimburse the buyer for what he has performed, as promised in the contract of sale, prior to the completion and for necessary expenditure in connection with the purchase. The municipality shall pay interest on an amount which it is required to pay on these grounds. The interest is calculated as provided in Section 5 of the Interest Act (1975:635) from the day on which the buyer expended the amount and until the first weekday of the second month after the completion of the pre-emption, and as provided in Section 6 of the Interest Act for time thereafter. The municipality shall also reimburse the buyer for necessary expenditure devoted to the property over and above what reasonably corresponds to the value of the return obtained by the buyer. Interest on such compensation is payable as provided in Section 6 of the Interest Act from the first weekday of the second month after the pre-emption has been completed.

If the buyer has felled timber other than for domestic needs or has divested the property of other than its usual yield, the municipality is entitled to obtain compensation therefore. The same applies if the buyer has damaged the property or otherwise caused it to diminish in value, if and insofar as this can be deemed reasonable, having regard to the nature of the procedure and circumstances generally.

Section 14. A dispute in a question referred to in Section 5 (2) or (3), Section 6 or Section 13 is tried by the court in the locality where the real property is situated. If the property comes within the ambits of more than one court, the dispute will be tried by the court in whose ambit the greater part is situated.

In cases referred to in the foregoing, the municipality shall answer for costs on both sides in the court of first instance, except where otherwise occasioned by Chap. 18, Sections 6 and 8 of the Code of Judicial Procedure. Concerning liability for costs in a court of superior instance, and subject to Chap. 18 of the Code of Judicial Procedure otherwise applying, the municipality, unless otherwise occasioned by Chap. 18, Sections 6 and 8 of the same Code, shall always bear both its own costs and costs incurred by an opponent as a result of the municipality having prosecuted the proceedings.

Section 15. If notice as provided in Section 7 (1) has been sent by the municipality by registered letter from a post office within the country for delivery to the recipient's ordinary address, the municipality shall be deemed to have performed what is incumbent upon it.

If the property is situated within the ambits of different land registration authorities, notice as referred to in Section 7 or 9 shall not be deemed to have been given until all land registration authorities have been notified.

Section 16. The provisions of Sections 1-15 concerning the sale of real property apply, *mutatis mutandis*, when such property is exchanged.

Section 17. Repealed.

The schedule to this Act mentioned in Section 1 is excluded in this translation.