

# Dacha amnesty in 2022

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**Abstract.** For 16 years, Federal Law No. 93-FZ of 30 June 2006 "On Amending Certain Legislative Acts of the Russian Federation Regarding the Simplified Procedure of Registration of Individual Rights to Certain Immovable Property" (hereinafter referred to as Law 93-FZ, "dacha amnesty"), which is commonly known as "dacha amnesty", has been in force in Russia. Since the enactment of Law No. 93-FZ, a number of reforms have been introduced in the field of real estate registration and new legislative initiatives have been taken. To date, the legislator has decided to extend Law No. 93-FZ, and this article addresses a number of questions. Was the dacha amnesty mechanism effective within the framework of the legislation for all years of its existence? What are the pluses for the state and citizens from the enactment of this law at the moment? Will Law No. 93-FZ actively work against the background of other legislation enacted in 2022 and beyond? As a result of a comprehensive study of the simplified procedure of registration and cadastre of dacha and housing estates in the RF, the author will provide answers to the questions posed.

## 1 Introduction

"Dacha amnesty" refers to a set of legislative acts introduced for the first time in 2006 to simplify the procedure for registering land and capital construction projects in the territories of gardening associations (hereinafter, SNP) and individual housing construction (hereinafter, IHB), previously not registered in the prescribed manner [1-5].

The considerable time that has elapsed since the enactment of these pieces of legislation makes it possible to examine their historical and legal characteristics and draw some conclusions from their application, in particular:

- the "effect" of the original piece of legislation;
- compliance with legal aspects in the implementation of these norms;
- the "pluses" of introducing such legislative norms for all parties to legal relations (the state and property owners subject to dacha amnesty).

First, let's look at the phenomenon of dacha amnesty in general.

Over the more than 16 years of its existence, the introduction, extension and even temporary cancellation and return of the amnesty has been accompanied by several factors:

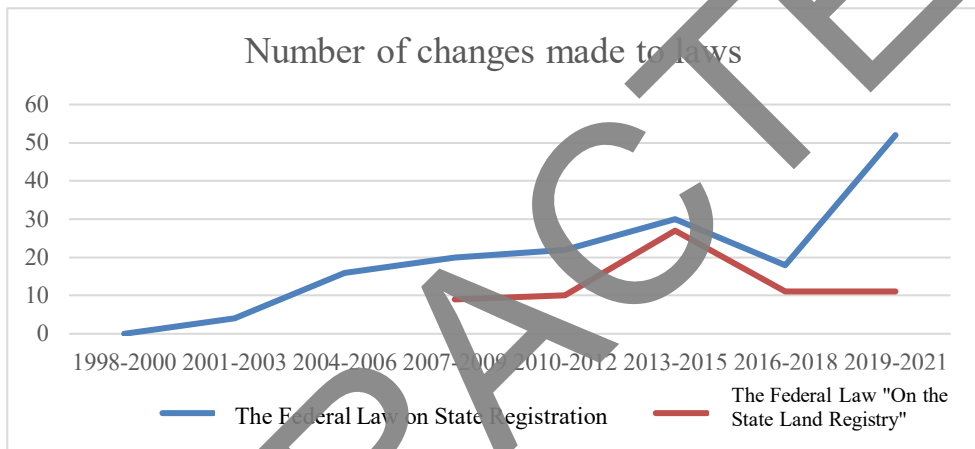
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A) the instability of the state's real estate and rights registration procedure.

## 2 Main Part

As is known, the introduction of the Federal Law No. 221-FZ "On cadastral activities" dated 24.07.2007 was implemented only in 2007, and the Federal Law No. 122-FZ "On state registration of rights to immovable property and transactions with it" dated 21.07.1997 (repealed as of 01.01.2020) was implemented only in 1997 [1-3]. In its place is the Federal Law of 13 July 2015 No 218-FZ "On State Registration of Immovable Property". At the same time, for 15 years, the amendments to these laws show absolute instability. As can be seen in Fig. 1, the legislation on registration and accounting has a clear trend line of increasing adjustments and additions to the legislation.



**Fig. 1.** Graphs of the number of amendments made to the Law on the State Real Estate Cadastre and the Law on State Registration since its introduction in Russia.

At the same time, with the changes to these laws, the basic fundamentals of real estate accounting - the scope of data to be recorded, the procedure for submitting information - have changed. This has led to two significant changes in the cost of data entry:

1. Introduction of separate accounting of dacha plots and buildings;
2. Introduction of compulsory clarification of the boundaries of dacha plots and buildings.

Due to these changes, the information in the State Real Estate Cadastre was re-registered. As a result, the application of the dacha amnesty often had to be repeatedly applied to the same property.

This "wave-by-wave" approach to the introduction of the Federal Law "On Dacha Amnesty" made it impossible to assess the effectiveness of the law, as the previous phase of amnesty was found to be fully ineffective - the information was considered incomplete, unreliable or irrelevant.

B) low rate of involvement in the legislative procedure;

More than 14 million citizens have benefited from the dacha amnesty over the 16 years it has been in force. This number includes both land plots and dacha buildings. However, according to the estimates of Rosreestr, as of 2017, 57.8 million plots in the country had not undergone land surveying, and there is no accurate data on buildings at all. Thus, we can compare that the amnesty has only approached 24% in its effect according to the most

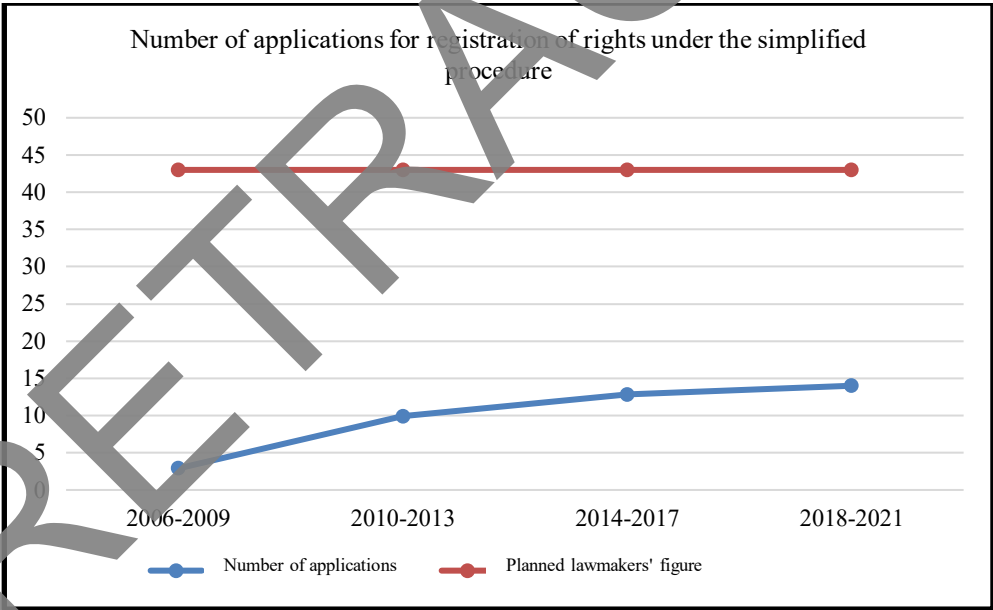
positive estimates, which for a law that has been in force for 15 years, can hardly be called an effective result [4].

C) uneven recording of immovable property;

According to Rosreestr, the application of Law No. 93-FZ is uneven from region to region. Thus, while the figures for the central regions are close to 90% (Krasnodar Territory, Moscow Region), in Ingushetia, Udmurtia, Vologda, Kirov, Kostroma, Magadan, Penza and Ulyanovsk Regions, as well as in Kamchatka Territory, according to Rossiyskaya Gazeta, the figure is not more than 25% [4].

According to the Civic Chamber of the Russian Federation, in the first year of the dacha amnesty, no more than 1% of the owners applied for registration of their plots. A graphical representation of the year-on-year performance in relation to the first year's plan is shown in Fig. 2. It can be clearly seen that the first-year plan has still not been fulfilled. The authors of the draft law in 2006 supposed that 24 million gardeners and 19 million owners of residential housing estate (14 million rural residents and 5 million urban residents) would benefit from the "simplified" real estate registration procedure. As a result, the 15-year target has been achieved by about 32 % of the planned number. As there is no uniform reporting of the number of cases by year and the data available is approximate, the graph shows periods of 4 years.

When analysing the graph below, the noticeable drop in the number of applications observed since 2017 - when the compulsory cadastral works and technical plans for garden constructions were introduced, as well as the subsequent notification procedure for residential construction, which was an unpopular measure among consumers.



**Fig. 2.** Volumes of applications for registration of rights to real estate under the simplified procedure in 2006-2021\* (\* - according to official data from the portal of FSBI FCP and Rosreestr and the Public Chamber of the Russian Federation) [8, 9].

In addition, the act itself has involved varying amounts of real estate in successive reforms. Table 1 presents an analysis of the scope of the *Dacha Amnesty* over the 15 years. As can be seen, plots and dacha properties have been introduced, then excluded and reintroduced into the law. Again, this dynamic reform is due to the fluctuating boundary of

responsibility in terms of urban planning and building regulations in relation to residential housing, which can be explained by the need to take into account the interest of the state.

**Table 1.** Dynamics of the list of real estate properties covered by the Dacha Amnesty Law.

|                                                                    | Year and name of the wording of the Act                                                                                                                                                                                                                                          |                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                 |
|--------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                    | 2006<br>FZ No. 93 of<br>30.06.2006                                                                                                                                                                                                                                               | 2018<br>FZ No. 93 of<br>30.06.2006<br>(amended<br>29.07.2017)                                                                                                                                          | 2021<br>FZ No. 93 of 30.06.2006<br>(revised on 30.04.2021)                                                                                                                                                                                                                                                                      |
| Properties covered by the current version of the Dacha Amnesty Act | <ul style="list-style-type: none"><li>- Land plots SNT ONT;</li><li>- buildings on the premises of the housing cooperative;</li><li>- residential land plots;</li><li>- buildings on housing estates;</li><li>- Garage buildings on the grounds of the housing estate.</li></ul> | <ul style="list-style-type: none"><li>- Land plots SNT ONT;</li><li>- buildings on the premises of the housing cooperative;</li><li>- Garage buildings on the grounds of the housing estate.</li></ul> | <ul style="list-style-type: none"><li>- Land plots SNT ONT;</li><li>- buildings on the premises of the housing cooperative;</li><li>- residential land plots;</li><li>- buildings on housing estates;</li><li>- Garage buildings on the grounds of the housing estate;</li><li>- Land and buildings of private farms.</li></ul> |

As far as compliance with the law itself is concerned, there is no question. Due to the declarative nature of real estate registration, it is not possible to oblige the owners in any way to carry out the registration of real estate previously obtained by them. This explains the direct involvement of property owners (see above).

However, the issue has been further regulated over time by the introduction of a restriction on the disposal of real estate:

- the impossibility of disposing of real estate that has not been registered with the cadastral register and the registration of rights;
- Double the tax rate for owners of residential plots if, after 10 years, the owner has not built a detached house on the plot [6-9].

As a result, when asked about the effect of the dacha amnesty legislation, the following evidence of low effectiveness can be found:

1. Legislation has failed to meet legislators' and enforcers' expectations in quantitative terms, even taking into account repeated extensions and a cumulative effect of 15 years;
2. The repeated extensions and changes in the scope of regulation have resulted in additional costs in terms of the cost of implementation of these legal provisions.

One of the main shortcomings of the dacha amnesty is the lack of clarity of the original purpose and objectives for the beneficiaries of the law.

While in the case of the state, the legislator's aims and objectives are clear enough and lie in the area of economic management - taxation, accounting, regulation of the dacha market area - in the case of citizens-consumers, the economic and practical effect is not so obvious:

- 1) no direct economic benefit to property owners.

As noted at the stages of discussion of one of the next dacha amnesty reforms in 2019 by State Duma deputy Arefiev N.V., one sees a direct benefit to the state, with no economic efficiency for the property owner himself: "It does not take into account that with six acres in some regions one cannot even harvest 3 thousand rubles and has to pay about 20 thousand" (quote from the transcript of the discussion of State Duma meeting No. 229 of 23.07.2019) [10].

Although it is noted that the introduction of dacha amnesty should eliminate the costs of inheriting this real estate and enable full disposal and turnover of real estate in the current

market, the ratio of costs is simply comparable to the real estate value itself (Fig. 3). Fig. 3 shows the ratio (as a percentage) of cadastral costs to the average value of dacha real estate as of 2018 [6]. Such data adjusts accordingly with the region's involvement in the register-registration mechanism: the lower the percentage of value, the higher the percentage of dacha properties registered in the region (see above).

2) the existence of costs to the state on the part of the cadastral processors.

the existence of costs to the state on the part of the cadastral processors:

- payment of VAT/NDF to the budget (13%-20% of the contract value, depending on the legal form of the contractor);
- payment of the cost of requesting information from the Unified State Register of Legal Entities.

- other minor ancillary costs, such as the cost of travelling to sites in remote areas.

Thus, we can say that the dacha amnesty does not take into account the market mechanisms of the real estate market, as the legislator refers to the real estate cadastre only as a state regulator which is not subject to market laws. This is an obvious mistake, as the registration process is legally based on market services - services of cadastral engineers.

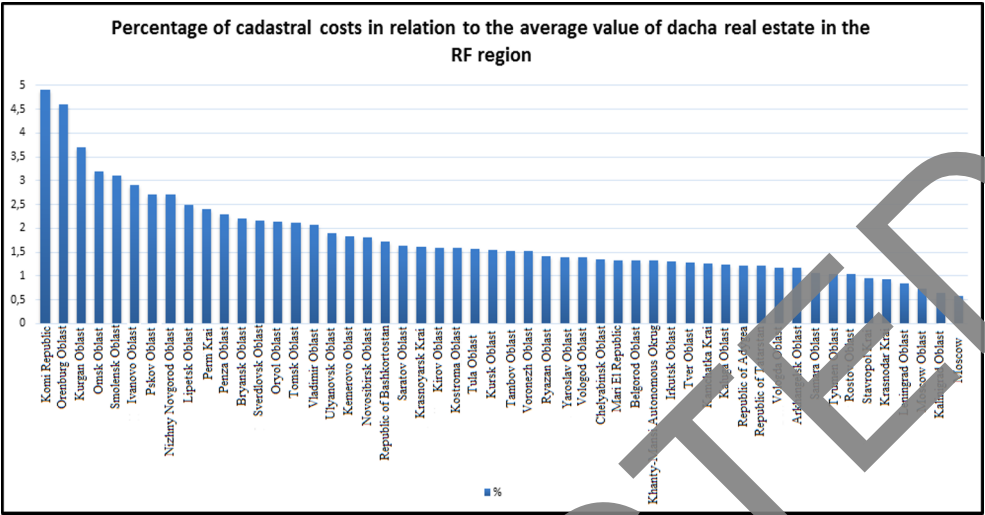
This shortcoming is being addressed by regulating the price of cadastral works, as reflected in recent amendments to real estate legislation (the regions themselves set limits on the cost of works - Law on Cadastral Activities *changes from 2018*), which again should not be implemented by the state directly as a preventive measure, because it will lead to a reduction in supply in relation to demand from the most vulnerable consumers - dacha owners, among them people of retirement age, large families, people with low incomes, who use dacha real estate as a place for recreation and growing personal consumption products (vegetables, fruits). More often than not, it is the owners and active users of dacha real estate (growing crops and spending holidays at the dacha) who are the most low-income groups of the population.

At the same time, lawmakers saw a direct benefit to the end-user in the simplified procedure for registering rights [11].

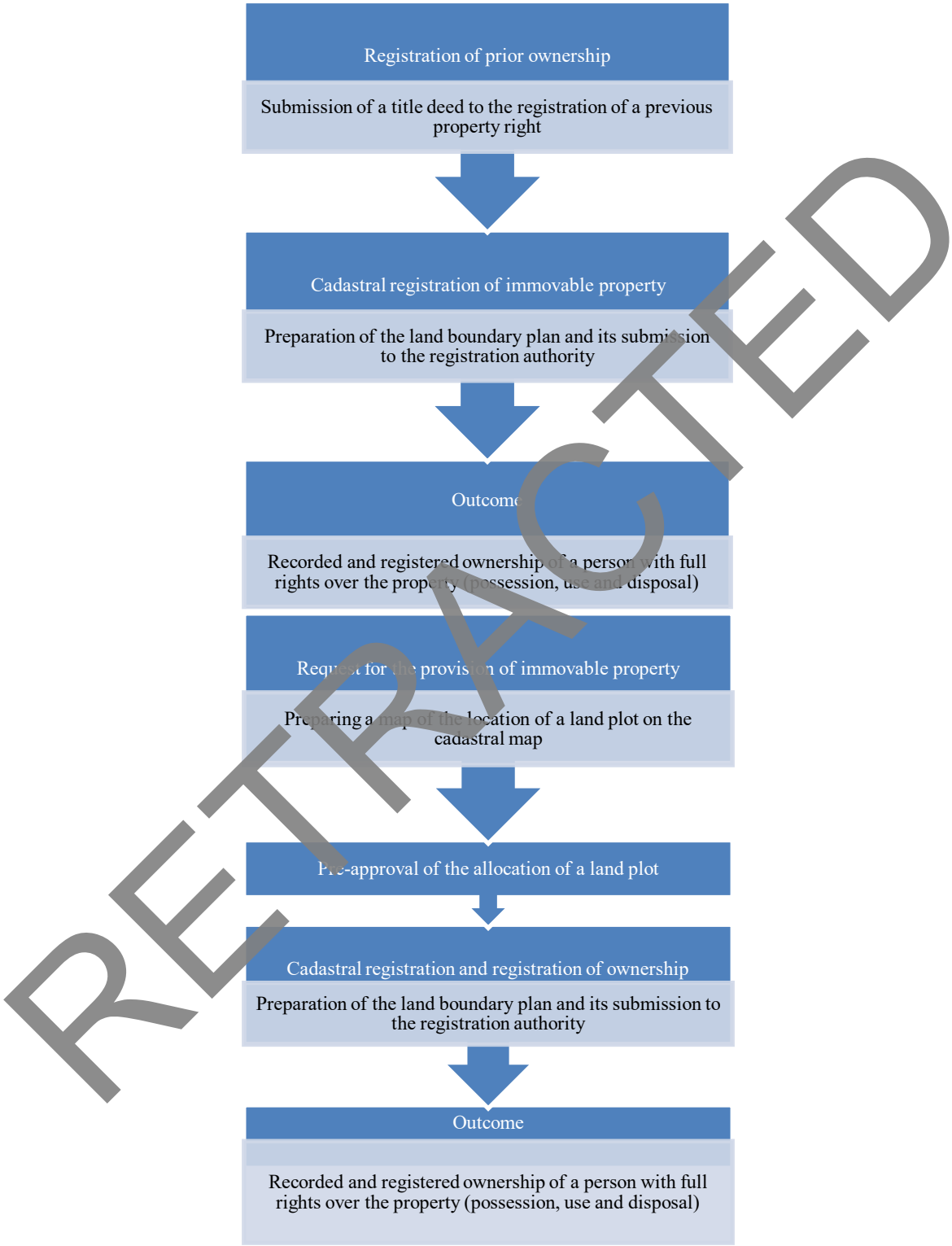
This thesis seems to be debatable. If we consider the full process of registration of ownership rights compared to the pre-existing right, we note that the pre-existing right was already documented - by a resolution of local administration or a sample certificate of right before the entry into force of the Law on the State Real Estate Cadastre and the Law on Registration of Rights, therefore the owner's interest in such "re-registration" of rights is often questionable.

Let us return to the comparison of the simplified procedure for recording and registering the plot. We will visualise this in Fig. 4.

When comparing the two schemes of record keeping and registration, it is worth noting that the completeness of the data on the objects is similar with regard to the simplified registration of prior rights. In the case of the full procedure, a preliminary boundary agreement is prepared on the basis of the data obtained during the cadastral works. This raises a question - to what extent is the registration procedure simplified if the completeness of data and cost of cadastre works differ insignificantly? The answer is that this simplifies the procedure by decreasing the load on the local government authorities - they do not have to check the boundaries of the registered object. This way the responsibility for land monitoring is removed from the municipal authorities and the burden of land monitoring is shifted to the owner of the property. The difference in obtaining and possession of a document of title does not affect the requirements to perform cadastral works in relation to the plot (if a person wishes to have the right to dispose of real estate).



**Fig. 3.** Relative cost of cadastral work for dacha properties (land + house) to the average value of a garden plot with a garden house.



**Fig. 4.** Algorithms of simplified (left) and full (right) real estate registration process for land plots.

In the case with buildings, while previously cadastral registration was optional (a declaration was enough), now cadastral works are compulsory for all capital construction projects. The simplification consists only in the fact that design surveys, construction permits and commissioning are not obligatory, but at the same time the state relieves itself of the responsibility for confirming compliance with construction standards on such objects.

The analysis of the economic side of the legislative norms on dacha amnesty leads to the conclusion that these norms do not remove the costs from the owners of real estate for conducting accounting and registration activities, but rather establish additional requirements in the form of an obligation to carry out work in relation to real estate, limiting the disposal of real estate in case of refusal to use this legislative mechanism.

### 3 Conclusions

According to the above, it should be recognised that the 15 years of the dacha amnesty have shown the failure of the system of simplified real estate registration regulation in relation to regulated real estate. First of all, this is confirmed by such characteristics of the law as:

- low volume of recorded real estate;
- Regular and often inconsistent adjustments to the law;
- Increasing costs to implement the full requirements of the law, both for property owners and the state.

If we look at these rules in terms of their future effectiveness, it is worth noting that there is still room for further application of the law.

As described earlier, it has been used mainly for garden properties. However, the residential housing market has grown considerably over the period 2020-2021, with a recent increase in demand for this type of property (in 2021 by more than 17% and an average annual growth of 5.5%).

At the same time, this law regulates simplified accounting and, at the same time, closes the possibility for the development of construction standardisation. The objects of registration themselves require full provision of utilities at the expense of the property owner, which again does not enable the development of the real estate market and consequently the scope of registration and registration as a whole.

As a result of the analysis of the drafting of the Dacha Amnesty Act, the following conclusions should be drawn:

- the law is not sufficiently effective, both from an enforcement point of view and from the perspective of the current market situation for garden and individual residential property;
- legislation does not allow for development in the area of garden and individual residential property requirements, especially in remote and low-income regions, and thus limits the growth in the number of registrations;
- the law requires a comprehensive review of the scope of actions with the possibility of erecting capital construction projects with the legal framework for construction and a significant streamlining of real estate registration actions.

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