

Housing Ownership Law Reform 2020:

Risky transition to new rails

An example of one highly legal legislative process that sends homeowners into the dark



The bottom line is ...

From 01.12.2020, serious changes have affected the owners of about **10 million housing units throughout Germany**. Following a comprehensive reform of the Housing Ownership Act, the Homeowners' Association (HOA) has been given full responsibility for managing the common property. The position of individual apartment owners in relation to the OSZH, the position of the manager and the position of the Council of Owners ^{one} were defined in a new way.

A clear distribution of roles creates legal clarity. But it is unclear whether owners, unfamiliar with the details of the new law, will be able to keep the reins in their hands in practice, and if so, how. In addition, questions arise in connection **with a new simplified procedure for the approval of construction activities**. Uncontrolled construction and price chaos that may arise due to this simplified order and become the payment for the fact that residential complexes will leave the "stone age" and begin to modernize rapidly.

The Wohnen im Eigentum (WiE), which has been pushing for urgently needed reform over the years, has managed to influence the parliamentary debate on the Act. **intensive lobbying; and extensive work with the press and the public.** At the "last second", important changes were made to balance the power balance in condominiums. However, the WiE Consumer Protection Society **reacted with mixed feelings to the final version of the document**. Is there a stream of litigation awaiting the CJO now to clarify open procedural issues, new responsibilities and rights? The German Federal Ministry of Justice (BMJV), which introduced the bill, did not ask these questions. The approach to drafting the law was purely legal and academic, and from the point of view of homeowners did not take into account practical situations and day-to-day problems. The system is gaining more legal clarity, however, in practice, the Law leaves a lot of uncertainties. In this publication, the WiE Association offers an overview of **the legislative process that took place out of touch with reality. This process could be more successful with the direct participation of homeowners**. The WiE would like the new law to not only introduce a new "smooth" system, but also provide owners with instructions on how to use it. In addition, the reform was intended to address many other pressing practical issues, such as annual reporting, maintenance planning, and the digitalisation of joint ownership activities. There are also no required special

1 Situation in Germany with Home Owners' Associations (WOZ) (Wohnungseigentümergeinschaft, WEG):

- German law establishes that membership in the OSZH comes automatically, along with the acquisition of ownership of the apartment. None of the owners can refuse to join the OSZH.
- All apartment owners jointly create a civil society society. The OSZH is jointly and severally liable in relation to the common property, and the members of the association are liable within the limits of their share in the right to common property.
- The general meeting of members is the supreme body of the OSJ, a kind of "parliament" of the association. It exercises its powers through decisions that are adopted by the general meeting of the OSZH and are carried out in accordance with the Charter of the association.
- As a rule, most HOs do not independently manage the home. At the general meeting, the members of the OCJ decide on the selection of a qualified professional manager (Verwalter) who manages the OCJ house on a contractual basis. The manager is responsible for the implementation of decisions made at general meetings and carries out the necessary work in accordance with his contract.
- The costs associated with the management and maintenance of the common property are reimbursed by the apartment owners jointly, according to their shares in the common property of the house.
- The members of the UJS elect from their circle the Owners' Council (Beirat), which is authorized to advise and support the manager. (*Note of the Housing in Eastern Europe Initiative, IMO, Germany, www.iwoev.org).*

Prescriptions for small and small HLOs as well as large multi-part HLOs.

As the saying goes: **after the reform, a new reform is needed** - and therefore it remains to be hoped that the next amendments to the Law on the ownership of housing will proceed from the problems of owners, and not lawyers. But the road to this will be long.

Association Wohnen im Eigentum (WiE) operates throughout Germany, is a member of the Federal Association of Consumer Associations and particularly represents the interests of homeowners. The WiE Association acts independently, is not associated with any political party and defends its legal interests in dialogue with the public, politicians and business. The WiE Association stands for strengthening the consumer protection system and increasing the transparency of the construction and housing market.

The Association supports its members by providing free advice from lawyers and architects, free online reports and other consulting services on the topics of residential property, construction and modernization. Further information is available at the link: (in German: <https://www.wohnen-im-eigentum.de>).

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1. The road to the bill: global changes without taking into account reality

Starting Position: Structural Issues - Housing Ownership as a Mass Phenomenon and Outdated 1951 Law

For a large group of homeowners who own about 10 million housing units (**almost 25% of all apartments in Germany**), The Home Ownership Act (WEGesetz) is very important. It provides the legal basis for their property rights and is a tool for organizing the management of common property. This law was passed back in 1951. When it was adopted, the legislator proceeded from the assumption that residential buildings / complexes would be small, and most of the owners would live in them themselves. At the same time, it was assumed that among the owners there would be people with good management, construction or legal skills - engineers, lawyers, businessmen, technicians. But since then, the size and structure of joint households has changed significantly.

Today there are both houses with two apartments and condominiums with more than a thousand apartments (the largest known residential complex has 1920 apartments). In addition, the massive takeover of rental housing after 1990 has led to significant market changes, as large, partially non-refurbished / energy refurbished rental housing units were sold to tenants and small investors scattered across Germany as part of individual privatization. Also, do not forget that there are also apartment owners living abroad. They often do not have basic knowledge of either the German Home Title Act or German rental housing law. Therefore, the financial situation of homeowners and their interests today are very diverse.

The urgent need for reform

The outdated Home Ownership Law, even after the first major reform of 2007, did not offer solutions to the countless conflicts that exist in practice, or these solutions were not enough. The consumer advocacy association Wohnen im Eigentum (WiE) has therefore for many years called for a massive consumer-oriented reform of the Housing Title Act.

Coalition agreement ² 2017: electromobility and climate protection as an impetus for reform

These efforts bore fruit when the German government in its **coalition agreement 2017** made a decision to amend the Law on Ownership of Housing. At the time, issues of affordable housing, electromobility and climate protection took center stage on the political agenda. The German Federal Ministry of Justice has introduced an initial draft law containing provisions on barrier-free environments and electromobility, while the Bavarian Ministry of Justice has presented a discussion draft with more substantial amendments. Following a meeting of associations on this issue in July 2018

² A coalition agreement between the political parties of the German coalition government during the legislative period to regulate medium- and long-term cooperation (*Note of the Housing in Eastern Europe Initiative, IMO, Germany, www.iwoev.org*).

year was created **Working group of the federal government and the federal states** to further elaborate on the key themes of large-scale reform.

This working group did not advertise its activities for almost a year, therefore **offers published by its members in August 2019**, became a “cold shower” for consumer advocates, as the basis was not the interests of the owners and their practical problems, but the management efficiency of residential real estate. The proposals were based on a systemic change in the common property management model. In order to achieve legal clarity, the management functions had to be transferred to a joint home ownership, i.e. the association of homeowners (HOA). Combined with the strengthening of management positions and the widespread removal of barriers to structural change in buildings, these **new provisions** were from the point of view of the owners **very risky**.

Residential Property Manager - Service Provider or Director?

Simplification of the management of OSZh should take place without strengthening the position of the manager!

As part of the reform of the Housing Title Law, the role of the manager is also being discussed. WiE has developed proposals that do not affect the foundation of Housing OWNERSHIP rights.

[Read the new WiE setup document!](#)



Draft law 2020: interests of homeowners are not reflected

The draft law on the modernization of residential properties (WEModG) of the Federal Ministry of Justice, published in January 2020, took into account the main proposals of the Working Group of the Federal Government and the federal states and went even further by proposing **a clear system aimed at effective management, and assuming broad powers of the manager**. Concerns and requests from the Working Group to take into account the rights of owners were ignored. Practical suggestions made by WiE and other organizations were largely ignored in the draft law. Was requested **position of various associations**, and the formal procedures for participation in the development of the draft law were followed. WiE as the only association representing consumers presented large-scale criticism of the entire reform: 88 pages with 16 central demands for change and countless detailed proposals). However, broad public **the discussion with the group directly affected by the amendments to the Law - the apartment owners - was pushed into the background**.

The approach to the law was of a purely legal academic nature and was not focused on solving practical problems. Offer to spend more **broad scientific discussion**, demanded by organizations such as the German Association of Judges or the German Bar Association, also **was rejected**. There were probably too many (well-founded) fears that the new legal concept developed by the Federal Ministry of Justice would be changed in the event of such a discussion.

The bill remained true to the general line

As early as 03/23/2020, the Federal Government adopted this almost unchanged draft Per-Residential Property Modernization Act (WEMoG) with the intention **As soon as possible** send it to the Bundestag for further consultation. Then six law professors from **a network of lawyers and managers**, which will be discussed below, praised the bill, calling it a "crystal clear" design. This assessment was expressed in a letter of support sent in April 2020 to the Federal Ministry of Justice. The letter said that the new legal structure "is not suitable for discussion in the newspapers. We would like this bill (...) to appear in the Gazette of Federal Laws as soon as possible."

"Attempted reform creating significant imbalance" by a professional network of lawyers and property managers

About the reasons for such **action by the Federal Ministry of Justice** one can only guess

- the head of the WiE association Gabriele Heinrich later formulated these possible reasons as follows in her commentary to a Berlin newspaper Tagesspiegel: Since the professional development of legal managers is carried out mainly by lawyers, over the decades close contacts and networking have been built between associations of managers and professional lawyers (professors, judges). As part of their communication, specialized political discussions are also held and their own, sometimes very specific proposals for the reform of the Law on the Title to Housing are put forward. A specialist from these circles, close to the managers, was also seconded to the Federal Ministry of Justice to work on the draft law. **However, there was not and does not exist a network of influential lawyers who would express the interests of apartment owners.** - and homeowners' associations, such as WiE, cannot counterbalance this, as they are privately financed only by their members.

Based on her observations, Gabriele Heinrich formulated four theses:

- First: the experts mentioned presented an undifferentiated, highly simplified **a view of homeowners from a manager's point of view**. According to this view, most owners are considered uninterested in managing common property. Individual active homeowners are often viewed as troublemakers who complicate the work of managers and overwhelm the courts with their claims to challenge the decisions of the manager. Owners' Council ³ not much importance is attached to, since non-specialists sit in it. Experts also do not want to change their position on this issue.
- Secondly: **topics important for homeowners were not discussed in these circles**, for example, the right of owners to control and intervene, or the possible upgrade of the owner's council to a supervisory body or supervisory board. The possible role of the owners' assembly as a governing and control body was also not studied; likewise, the interference with the rights of owners in general was not discussed. On the other hand, strengthening the position of the manager became a subject of discussion.

³ Although, it should be noted that in Germany very often the Council of Owners includes active members of the OSJ and, in addition, specialists - lawyers, engineers, builders, managers, who are able to professionally solve the issues of OSJ. These specialists are most often the category of citizens who primarily purchase their own apartments. (*IVO note*).

- Thirdly, **the position described above was reflected in the draft Law on the Modernization of Residential Property (WEModG)**, obviously, in the aspect of transferring corporate rights to joint households. At the same time, the practical feasibility of this step and its consequences for the homeowners whose property is in question were not taken into account.
- Fourth: The new legal concept has created **glaring imbalance** because the gain of the manager **was not compensated by a practical mechanism of management and control on the part of homeowners**. Was it due to the lack of legal concepts or to protect the manager from the owners? It is possible to assume precisely the latter, since the owners were deprived of the opportunity to express direct claims against the manager.

The desire of lawyers to lead without the participation of the owners themselves

The described procedure demonstrates the desire of lawyers to lead and even testifies to their elite thinking, which does not correspond to today's social expectations regarding the participation of affected persons in the legislative process. The legislator must, no doubt, rely on scientific expertise. However, this examination should not be carried out en masse by experts representing only one side, **looking at homeowners through manager glasses**. Ideas and suggestions reflecting the views of owners and practical experience provided by consumer organizations to address deficiencies in the Housing Title Law have been insufficiently addressed. Moreover, reliable empirical and sociological evidence was lacking for such a revolutionary reform.

2. Activities of the WiE Consumer Association: Achieve Transparency and Reboot

No reforms bypassing the owners!

Back in the spring of 2019, when the working group of the federal government and the federal states was developing its concept, the WiE association invited the owners of residential real estate themselves across the country to pass **a survey titled "How can we get joint households back on their feet?"** wanting to give the owners the opportunity to speak. By taking part in the survey, the owners indicated which topics are important to them. They also demonstrated their interest in the legislative process and rejected by-pass reforms. About 3,500 survey participants provided a clear picture of owner sentiment. They perceived the proposals to strengthen managers as "hopeless" and demanded an increase in their decision-making and control rights. The results of the survey set the direction for all further actions of the WiE association.



WiE survey all over Germany Housing Ownership Law Reform

Answer, as a landlord or landlord, to the following question:

How can we get the OSH back on its feet?

Click here and get involved!

Accordingly, the WiE association expressed its position in **two installation documents**:

- Service provider or director? Simplification of the management of the OSZH should take place without strengthening the role of the manager!
- Homeowners must retain their right to vote.

These documents provide a critical analysis of the systemic changes proposed in the final report of the Working Group of the Federal Government and the Federal Länder, as well as the requirements for the legislative procedure.



Changes in the management system of joint households

Homeowners and landlords want to keep their right to vote

WiE Statement on Federal Government-Länder Working Group
Proposals for Housing Title Reform

(Chapters VI and XI of the Final Report)

In the next phase - the report of the Working Group of the Federal Government and the Länder has already been published - the WiE has set out its reform requirements in the Affordable Housing Policy Statement, published in early November 2019 **Federal Association of Consumer Organizations** ^{four} and twelve consumer associations, including WiE. Such **cohesion** was also supposed to serve as a clear signal to the legislator that the new Law on Housing Ownership should be made more consumer-friendly.

Of course, at this stage there were already many **contacts and discussions**, happening in the background. Mention should be made here of the critical letter to the Secretary of State of the Federal Ministry of Justice Billen, the subsequent discussion in the Federal Ministry of Justice, various letters to a number of the Ministries of Justice of the federal states, as well as the coordination of a common position with the Haus & Grund associations. ^{five} and "Bauherren-Schutzbund" ⁶.

^{four} Federal consumer associations are national associations that, under a government mandate, provide consumer protection and advisory services.

^{five} <https://www.hausundgrund.de>

⁶ <https://www.bsb-ev.de>

By transmitting the results of the aforementioned poll to the Bundestag deputies, the WiE began its offensive at the beginning of 2020 in order to convince parties and especially members of the

Bundestag Legal Committee amend the Law on the Modernization of Residential Property in the interests of homeowners.

The WiE Association has constantly received questions regarding the confirmation of the professionalism of the managers and the quantitative assessment of the damage that the apartment owners suffer due to the unqualified activities of the managers. In response, WiE presented new results **a survey on the damage caused by managers**.

It was also important for WiE to study the situation in neighboring countries (experience of the Netherlands and Austria): differences between Dutch and German law OM managed to discuss residential property at a meeting in February 2020 **with the Dutch Association of Home Owners VvE Belang**.

The head of the housing working group of the Vienna Labor Association Arbeiterkammer Wien informed the WiE about his **criticism of the Austrian system**, from which, most likely, the German bill borrowed the concept of "strong manager". WiE initiated **an open letter to the Federal Minister of Justice of Germany Christine Lambrecht**, which was also signed by the association of developers "Bauherren-Schutzbund" and the associations of homeowners "Verband Wohnungseigentum" and "Verein Deutscher Wohnungseigentümer" ⁷. The letter pointed out the dangers and negative consequences of the new provisions contained in the bill. However, our appeal to the minister with a request for a radical revision of this bill again remained unheard.

Residential Property Modernization Bill (WEMoG) Draft Gets Mass Resistance

Housing Ownership Law Reform

How the Federal Ministry of Justice views property owners

The right to self-organize? You do not need

The right to make decisions? The manager needs it more

Obligation to pay? Of course, it remains with you

... and this reform will improve the situation in joint households?

No matter how it is, says the WiE association!



When the draft law proposed by the Federal Ministry of Justice became available for inspection, WiE re-focused **on informing and motivating owners and the public**. Numerous interviews and press releases ... WiE explained the implications of the planned reform in its brochure, prepared posters for display in joint households and developed sample letters to be sent to members of the Bundestag ⁸ and the press.

⁷ <https://www.vdwe.de>

⁸ Bundestag - Federal Assembly, unicameral body of people's representation Federal Republic of Germany. (IVO note)

Petition against the reform project collected the signatures of 8,230 homeowners in just 5 weeks - in the midst of the outbreak of the coronavirus crisis. At this time, the Housing Ownership Law was not on the agenda of the state media; the vast majority of homeowners did not even know about the reform yet, and people were burdened with other concerns. Nevertheless, more than 2,000 comments from stakeholders on the draft law give a very good idea of the sentiment of those homeowners who have learned about the planned changes.



WiE strategic vision

In addition to criticism regarding the fact that the new law will lead to a redistribution of powers to the detriment of homeowners (and other critical points), WiE was the only organization that spoke out against the procedure itself, i.e. against the very nature of the legislative process. At the same time, the WiE Association put forward the following requirements:

one. Attainment **transparency** for homeowners through the implementation of the following activities:

- generally comprehensible information about complex legislative provisions and "translation" of a new complex management system into understandable language for people who are not lawyers Informing about the (possible)
- consequences of adopting key provisions and visualizing them in order to facilitate perception
- Informing about the timing and time frame of the legislative process Disseminating information outside the circle
- of members of the association in order to reach the maximum number of stakeholders (homeowners)

2. Lining up **participatory participation** within the scope of the association through the following steps:

- 2018 survey of homeowners on their expectations of the reform of the law
- 2020 Online Petition for Fundamental Ownership Requirements
- Motivating owners to form their opinion and inform other owners in their apartment building

3. Carrying out **political consultation** using the following actions:

- Informing key political figures about the results of surveys and research Preparation of professionally based,
- detailed and detailed statements (4 in total) regarding the legislative procedure

• Negotiations with influential politicians Increase **political pressure** through the following activities:

four.

- Work with the press and the public: preparation of press releases, messages for target groups

- Motivating and encouraging homeowners to write letters to politicians, as well as demand from the media through readers' letters, etc., publications on the legislative procedure
- Joint statements with other associations
- Pointing out similar criticism from other organizations (Federal Supreme Court of Germany, German Association of Judges, etc.)

3. Parliamentary Debate: Important Adjustments to Achieve a Balance of Power

Galloping through Parliament?

05/06/2020 at **Bundestag** Germany introduced a draft Law on the Modernization of Residential Property (WEMoG), which was referred to the Bundestag's Legal Committee for consultation. Although several speakers at the opening of the debate pointed to the need to finalize the bill, the desire to approve it appeared to predominate.

- especially among MPs from the CDU / CSU⁹, SPD^{ten} and the Greens^{eleven}.

German **Bundesrat** held negotiations on this draft law on 05/15/2020, that is, after the 1st reading in the Bundestag! According to the German Basic Law, such a procedure is provided only for "particularly urgent bills". But neither the coronavirus crisis nor the advancement of electromobility is an excuse for a fast-track procedure. Was there really a need to push through both houses of parliament so urgently a law that would radically restructure the Housing Ownership Law and pose a high risk to property owners, and without public participation and media coverage?

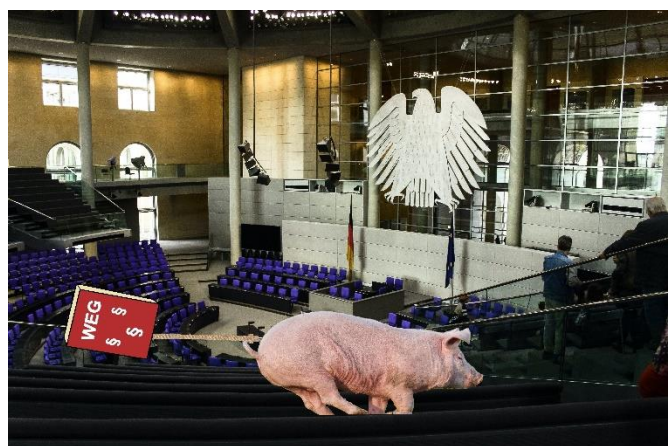
Housing Ownership Law Reform

Galloping through the Bundestag and the Bundesrat?

The coronavirus crisis does not justify rushing the reform process!

Who is interested in the urgent adoption of this dire draft law?

WiE calls on politicians: more time is needed to check the bill!



The WiE has responded with a sensational press release entitled "Housing Ownership Law: Galloping Through the Bundesrat and Bundestag?" The representatives of the CDU / CSU, because of our chosen "tone", almost broke off friendly relations with us. However, in the end, thanks to this publication, politicians began to change their position.

⁹ Christian Democratic Union and Christian Social Union (CDU / CSU).

^{ten} Social Democratic Party of Germany (SPD).

^{eleven} Union 90 / Greens.

(IVO note).

The Bundestag Legal Committee decided to hold **public hearings on reform issues** 05/27/2020, to which the head of the WiE Association Gabriele Heinrich was also invited as an expert. The association presented its again updated new statement. Not only the WiE Association, but also other experts criticized the bill during these hearings. The positions of the German Association of Judges, the German Association of Lawyers and the Federal Supreme Court of Germany were also expressed, which clearly indicated the shortcomings of the draft law.

This was followed by a reaction from the ruling parties as well. Instead of passing the law according to the plan before leaving for the summer break, the SPD and the CDU / CSU on 19.06.2020 in various press releases reported on **changing the bill in the interests of the owners**. The politicians agreed to remain silent on the talks over the summer.

Fast completion of the legislative process: however, not everything is perfect

At the beginning of September, the WiE association was surprised and delighted by the fact that the SPD and CDU / CSU factions of the Bundestag, during the summer pause, really agreed on important amendments to the bill. Some important requirements of the owners (unfortunately, not all) were taken into account.

“At the last second,” the power of managers to make decisions without the consent of the owners was significantly limited. In addition, the Resident Council is now directly charged with the task of **control over the activities of the manager**. Also, a provision was added according to which joint households can recall managers at any time whose activities they are dissatisfied with. The contractual rights of managers to receive payment for their services expire no later than six months after their withdrawal - this is a particularly important improvement in the draft law from the point of view of homeowners, which was agreed later. Thereby **the balance of power in the residential real estate sector was restored in favor of the owners**.

3. Outcome of the reform: many new rules of the game in the residential property sector in Germany

On September 17, 2020, the results of the negotiations were announced in the Bundestag and was adopted **new Law on ownership of housing**. The Bundesrat approved this law on 10/10/2020. After publication in the Federal Gazette of German Laws, the Residential Property Modernization Act **entered into force on December 1, 2020**.¹²

Association of Home Owners (HCO) became the subject of joint property management. **Managers** in external relations, they raised their status to the representatives of the CWL. This means that they can now enter into all kinds of contracts - up to transactions with a plot of land and credit transactions - that will be valid for the OSH. The new system is characterized by a clearer structure complemented by new **the rights of owners in the field of management and control**^{thirteen}.

¹² The title of the legislative act is "Law on the ownership of housing", 03/15/1951. was replaced by the "Law on the modernization of residential property", 01.12.

^{thirteen} It is important to note: the manager acts exclusively within the powers determined by the decisions of the general meeting of owners.

(IVO note).

New provisions for structural changes to buildings led to the fact that now joint households must allow the implementation of certain construction projects by individual owners - **when it comes to a barrier-free environment, electromobility, protection against hacking and high-speed Internet**. Now a simple majority is enough to make all kinds of decisions on **modernization and energy rehabilitation**. However, this situation will lead to many complex regulations regarding the costs of use rights in joint households. At the same time, a chance was missed to solve other practical problems related to the management of residential property:

- **Annual reports** will remain opaque and will still contain many errors. The requirements for the definition in the law of specific reporting rules or, more desirable, the requirements for the implementation of the established reporting form within the framework of the decree were not implemented or were not sufficiently implemented. No obligation has been introduced for the medium and long term **planning conservation measures for the building along with a funding plan**, although such a commitment would be extremely reasonable and necessary to preserve the value of the residential property, as well as socially acceptable financing of construction activities. Insufficient incentives offered to **digitalization** joint households. Thus, the question of combining data protection and the interests of owners remains open. Required special provisions for **small and small joint households**, as well as for large households, **consisting of several parts. The possibility of making direct claims of individual homeowners is excluded** in relation to other co-owners of common property or in relation to the manager, since such claims do not fit into the new legal system.
-
- **Self management** was not simplified, **but rather complicated**.

An overview of the major changes in the new Housing Ownership Law

- one. All kinds **parking spaces** - in garages or in the yard - can be declared private property. **Terraces and parts of garden areas** in the future, they may, together with the respective apartments, be transferred to private ownership (§ 3 of the Law on Ownership of Housing).
2. The Association of Home Owners (HOA) is created when entered into the cadastre as **one-person household**. The contracts entered into by the organization separating the OSZH / developer are thus valid for all owners. However, the consumer protection provisions of the General Conditions of Business (§ 9a Housing Title Act) apply.
3. **Managers without any “buts” and “ifs” represent OSZH** in front of all business partners (exception: transactions on land plots and loans). **Chairman of the Council of Owners** presents the OSJ to the manager, for example, in the event of complaints against him (Section 9b of the Law on the Title to Housing).
- four. There are more possibilities in accordance with the decision of the owners to distribute **costs** otherwise than in proportion to the shares in the common property (§ 16 of the Housing Title Act).
- five. Each owner or landlord of an apartment receives the legal right to **familiarization with documents relating to the management of common property** (§ 18 para. 4 of the Law on Ownership of Housing).

6. After a long transitional period, each owner or proprietor of an apartment in an OSZH, numbering more than 8 units of private property, may require **appointing a manager certified by the Association of German Chambers of Commerce and Industry**. The details of the certification will be set out in a special legal regulation (§ 19 paragraphs 6 and 26a of the Housing Title Act).
 7. About all **constructive changes in common ownership** the decision is made by a simple majority of the owners at the meeting. Thanks to this significant simplification of the procedure, the waiting times for modernization should be reduced (§ 20 paragraph 1 of the Law on the Title to Housing).
 8. Each owner or proprietor of an apartment can demand the implementation at his own expense of constructive changes to the common property, which serve **achieving a barrier-free environment, electromobility, protection against hacking or access to high-speed Internet** (§ 20 para. 2 of the Law on Ownership of Housing).
 9. With other design changes, costs are, in principle, distributed among those owners who agree with the implementation of these construction activities - however, there are 2 exceptions. **The costs are shared among all owners**, if the event involves amortization (usually over 10 years), or if a meeting of owners decides to carry out an event at a disproportionate cost, by a majority of more than two-thirds of the votes cast and half of all shares in the common property (§ 21 Law housing ownership).
- ten. **Meeting of owners** in the future will always be considered eligible in terms of decision making, therefore the time frame for sending out invitations has been increased from 2 to 3 weeks. The meeting may decide to allow owners to participate in the meeting online, as well as that decisions on specific issues (for example, the choice between three commercial proposals) are taken by a majority voice. **a general survey of all owners**. The decision-making procedure remains the same (§ 23, 24 of the Housing Title Act).
11. Managers can **withdraw at any time** - even without a good reason. **Contracts with managers** expire no later than 6 months after the withdrawal of the trustees (§ 26 para. 3 of the Housing Title Act).
 12. Managers in the future will be able to take **measures of second of growing importance**, not leading to significant joint ownership obligations. Joint households can, by their decisions, limit or expand all the rights and obligations of managers - this is an important new right to **adaptation of the legislative norm to the individual situation** (Section 27 of the Housing Title Act).
 13. Solutions for **business plan and annual reporting** limited to payment obligations statements, which is designed to reduce the number of cases of challenging the decisions of the manager. In addition, the managers must submit to the joint household **asset report** (Section 28 of the Housing Title Act).
 14. **Owners Council** can consist of any number of members. They act on the general and are liable only in case of willful acts and gross negligence. In addition, the owners' council is entrusted with the task **to control** the administrator (§ 29, see also 9b of the Housing Title Act).

Conclusion: Reform of the Housing Ownership Law - Intensive Labor and New Challenges

WiE association strategy worked, **huge costs paid off**: the bill has been significantly improved taking into account the rights of homeowners. Overall, however, the process of reforming the law lacked transparency, that is, informing and educating affected target groups about the pros and cons, risks and future ways of implementing the procedures. As a result, today there is no support for the introduced changes from outside many homeowners, although they are the ones who must implement the reform in practice.

A Housing Title Act would be a good fit for **participatory legislative process**, as the target groups are foreseeable: first of all, these are home owners and managers, then they are also tenants, law enforcement officers and contractors. However, the German Federal Ministry of Justice has never studied the practical experience of joint households and did not draw conclusions from it about the need to reform the said law. The accepted formal procedure for public participation in the development of the draft law was followed - for example, the official position of associations, including the WiE association, was requested - however, they hesitated to conduct a wide public discussion. Reaching the affected homeowners required other means — for example, empirical research with surveys and interviews, etc. All approaches suggested by WiE and other organizations were ignored.

How democracy works (and how to improve it)

Reform Behind Closed Doors Spreads More **skepticism, feelings of powerlessness and disillusionment with politics**. Therefore, the WiE Association opposed the closed nature of the discussions and carried out a wide and voluminous work with the public in order to inform homeowners about the legislative procedure, explain to them the provisions of the new law and inform them about the expected consequences - see the documentation in German at the link <http://www.wohnungseigentumsgesetz.org> ... Association WiE counted these steps **the responsibility of the consumer protection organization** (and received a lot of support and many letters of thanks from homeowners). Politicians and the Bundestag - specifically the SPD, and then also the CDU / CSU - have proven that they **take their legislative function seriously** and made improvements to the bill despite the fact that they could no longer or did not want to change course.

4. Prospects: risks and side effects - when to expect them?

Many of the consequences of the new law can only be assessed in practice. **Home Ownership Act 2020 - Success or Failure?** The final answer will be known only in the future. However, homeowners must now **immediately adapt to the new situation**. They face many open questions. Since the owners did not receive “user instructions” to adapt to the system changes and other important transformations, they must take care of the “installation and test run of the system” in the joint households themselves and incur the corresponding costs. In this context, support from the Federal Ministry of Justice, which is responsible for such significant changes, would be appropriate, wouldn't it?

Legal certainty and legal clarity, which the legislator has been striving for in connection with the reform has not (yet) been achieved. The Federal Ministry of Justice did not deal with the implementation of the law from the point of view of the owner. In this regard, it is also pertinent to recall that the legislative process was characterized by a legal and academic mindset and proceeded largely without the participation of those affected.

System changes without user manuals - who will bear the costs?

Unclear consequences **systemic changes** in the aspect that the OSZH, as an eligible association, becomes a subject of management. If this association receives more responsibility, then the question arises of how the owners will be able to retain their voice - so that the fate of their joint home ownership is not determined to an even greater extent than before by external service providers. Many are unclear **formal procedures and mechanisms**, primarily in connection with the requirements for the manager, new "construction rights" of individual homeowners and the fulfillment of claims for damages in relation to "pests" - be they managers, co-owners of common property or other persons. It is to be feared that the damage - due to the lack of a claim mechanism, for example, against the manager - will be paid by the joint ownership.

Lots of questions are now entering the WiE association itself - for example:

- Do we need to hold many emergency owner meetings now so that owners can declare their wishes for a joint homeowner association (HOA)?
- How should the Owners Council and can control the activities of the manager? When and to what extent do the chairpersons of the owners' councils have the right to oppose the manager without the decision of the OSJ?

Who will give the owners the answers to these questions? Managers are not fully informed and they must first understand the new provisions themselves. In addition, they will not provide advice in the interests of the owners if the case is against them. Government agencies do not provide free legal advice. It is too expensive to hire lawyers to provide ongoing support on general issues in the long term. Shifting the function of informing exclusively to the owner associations - the WiE association has been fulfilling this task for a long time in one way or another - means **disclaim responsibility**, which the Federal Ministry of Justice, which is the initiator of the systemic change, should take over. At the moment, the owners have only one thing left: independently - with the help of their associations - to study new complex legal provisions and pay for their education, if the owners do not want to lose the reins of government.



The WiE Association will teach you ..
understand the new Housing Ownership Law!

First aid for you:
Online reports, videos, information brochures ...

WiE's extensive 2021 program:
Directory, thematic packages, events ...

Everything to support you in connection with the adoption of the new Law on the ownership of housing!

In the coming months, the main task of the WiE Association will be to **inform** homeowners and association members **about the new law**, develop recommendations for consulting and practical actions, draw up checklists and samples of contracts and do everything so that owners can use their (new) rights to adapt the legislative norm to their specific situation.

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PROMHOUSE - Professionalizing Housing Management in Kazakhstan and Uzbekistan

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Central AsiaInvest has supported private sector development in five Central Asian countries since 2007 with a particular focus on small and medium-sized enterprises (SMEs). A healthy private sector needs a strong network of Business Intermediary Organizations (BIOs) / Associations that can support its members, express their interests and serve as a reliable source of information.

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