

ENACTMENT OF LAW THAT AMENDS LAW NO. 21,435 AND THE WATER CODE

On July 13, 2023, Law No. 21,586 was enacted. This law amends Law No. 21,435 to extend the term to fulfill certain requirements set forth therein, and also amends the Water Code to introduce an administrative procedure to clarify and complete titles of water rights ("WR").

Amendments to Law No. 21,435

- The term to register WR in the Water Property Registry ("WPreG") of the relevant Custodian of Real Estate ("CBR", by its acronym in Spanish) and in the Public Water Cadaster kept by the General Water Bureau ("DGA", by its acronym in Spanish) is extended to April 6, 2025.
- Failure to register a WR in the WPreG of the relevant CBR within this timeframe shall not be cause for termination of the unregistered WR, provided the respective procedure to regularize the unregistered WR has been initiated.
- From April 6, 2025, only WR holders whose titles are registered in the WPreG of the CBR, are entitled to oppose to third parties' applications submitted before the DGA, based on alleged detriment to their WR.
- The term to form users' organizations of groundwater ("CAS", by its acronym in Spanish) in restriction areas or prohibition zones declared prior to the enactment of Law No. 21,435 is increased from 1 to 3 years, that is, until April 6, 2027.
- Law No. 21,586 clarifies that, upon the expiration of said term, the DGA shall only authorize the change of intake point of a WR if the WR owner took part in the judicial proceedings to form the CAS or joined the CAS subsequently.
- The CBRs are authorized, under certain circumstances, to register in the WPreG the ownership of a WR in favor of those WR owners who do not have an individual registration of their WR, based on registrations of the relevant users' organization of water (either judicially or extrajudicially formed) to which the WR belongs.

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Amendments to the Water Code

- The current judicial procedure to obtain rulings declaring essential characteristics of a WR which are not stated in such WR ownership registration in the CBR is replaced with an administrative procedure before the DGA.
- Additionally, water right owners who have already initiated judicial proceedings to improve their WR are allowed to drop the judicial proceeding and apply for this new administrative procedure.

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