



ISSUES RELATING TO FINANCE

CHILE

Claro & Cia., Abogados

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- 1. What instruments are used to create a lien on real estate to secure an indebtedness (e.g., a mortgage or deed of trust)?**

A mortgage is the usual form to create a lien on real estate. Mortgage is perfected by means of a public deed recorded in the Mortgage Registry at the respective Real Estate Property Registrar.

- 2. Describe national or local mortgage recording or other similar taxes payable on making a loan secured by real estate or perfecting a lien on real property.**

There is no mortgage tax in Chile.

- 3. Describe manner in which a lien secured by real property is foreclosed.**

Liens secured by real property are foreclosed in Chile by means of a foreclosure procedure before a trial court of law. After final judgment of said court, the affected real property shall be sold in a public auction.

- 4. Describe any significant costs of or impediments to foreclosing a lien on real property.**

There are not significant costs to foreclose a lien on a real property, other than the attorney's fees, which usually borders 10% of the collected amount. The main impediments to foreclose a real property are borrower's exceptions or defenses that may be filed before the trial court, which may considerably delay the foreclosure.

5. What is the customary time period for foreclosing a lien on real property?

The process generally takes between two and three years.

6. Are there national or other governmental permissions, approvals or licenses required for foreign banks or other foreign lenders to make real estate loans secured by real property? If so, please describe.

There are no special restrictions for foreign banks and/or foreign lenders to secure its loans with real property.

7. What legal limits are imposed on the amount of interest which may be charged on a loan secured by real property?

Interests charged on loans secured with real property are only subject to the limit specifically set forth by Chilean Law for loans in general. This limit is equal to the Average Interest Rate --at the time of the financing agreement-- increased in a 50%. Average Interest Rate is published by the Superintendence of Banks and Financial Institutions on a monthly basis.

8. Describe any laws that restrict the ability to make a borrower or guarantor personally liable for indebtedness secured by real property.

None.