



## ISSUES RELATING TO FINANCE

### DENMARK

#### Kromann Reumert

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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)?**

To create a lien on real estate to secure indebtedness it is necessary to use a mortgage.

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.**

In Denmark, a mortgage is recorded in the land register, where all Danish properties are registered. The rate of stamp duty on registration of a mortgage is 1.5 % of the principal + DKK 1,400 (USD 1 = approx. DKK 5.30). This tax is paid in full by the debtor. If a mortgage is already registered on the property, the fee for registration may be covered by the registration fee already paid. The amount that may be covered by the fee already paid depends on the type of mortgage registered on the property.

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

When the mortgage has been signed by the debtor and the creditor, it is filed for registration. The land registry examines whether the terms of the mortgage satisfy the statutory requirements for registration. If the requirements are satisfied, the mortgage is registered in the land register. The application for registration is processed within approx. two weeks. As from 1 January 2009, mortgages will be registered digitally and signed with a digital signature. The execution and registration of mortgages may thus be made directly and without any processing time at the land registry.

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

The costs payable to the public authorities are described in section 2. Besides interest, initial and administrative expenses are usually payable to the lender. The amount of these expenses is determined individually by the lender.

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

When the mortgage has been signed by the debtor and the creditor, registration usually takes two weeks. If the loan has to be paid before the mortgage is registered, the debtor usually has to pay guarantee commission. As from 1 January 2009, mortgages will be registered digitally and signed with a digital signature. The execution and registration of mortgages may thus be made directly and without any processing time at the land registry.

**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.**

Foreign EU/EEA credit institutions may operate in Denmark on a cross-border basis or through a branch on the basis of the EU financial passport subject to the formalities required by legislation. In respect of cross-border activities, the home country's banking authorities have to notify the Danish Financial Supervisory Authority of the intended cross-border activities and state that such activities are comprised by the bank's home country license. The cross-border activities may be commenced upon the Danish Financial Supervisory Authority's receipt of this information. As to activities through a Danish branch, the home country's banking authorities have to provide confirmation regarding the banking license in the home country, the capital and solvency figures and miscellaneous other information. The branch may start operating two months after receipt of this information. Foreign non-EU/EEA banks may operate in Denmark through a branch subject to approval from the Danish Financial Supervisory Authority. The branch must have a minimum capital of EUR 8 million and must be managed by two or more branch managers. In general, the branch has to comply with the same regulation in the Danish Financial Business Act as Danish banks.

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

Generally, there is no legal limit on the amount of interest that may be charged on loans secured by real property. Special restrictions, however, apply to consumer loans; the expenses payable by the consumer under the loan agreement must not be unreasonable.

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

In Denmark, there are no laws that restrict the ability to make a borrower or guarantor personally liable for indebtedness secured by real property.