



## ISSUES RELATING TO FINANCE

### DOMINICAN REPUBLIC Pellerano & Herrera

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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 agreement or a mortgage act is the instrument that is used to create a lien on real estate to secure indebtedness in the Dominican Republic.

2. **Describe [national] [state] [territorial] [provincial] 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 order to record a mortgage on a real estate property, the mortgagee must pay in taxes the 2% of the secured amount.

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

In case there is a breach of the obligations secured by the mortgage, the mortgagee must start the foreclosure procedure before the Lower Civil Court. The foreclosure entails the sale of the real estate property in a public auction. The timing, publication and publicity requirements in the course of the foreclosure are set forth under the Code of Civil Procedure and the Monetary and Financing Law. At the end of the procedure, the mortgagee will receive either a payment in cash or the ownership of the property asset.

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

The cost of foreclosure may be significant if the process takes longer than expected by reasons of actions promoted by the debtor, to delay the public auction and to challenge the actions undertaken by the creditor to obtain the payment of the debt.

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

The customary time period for foreclosing a lien on real property, if it is uncontested, is about 1 year. If the foreclosure is contested, there is no specific time frame, and the action will follow a time commensurate with litigation matters in general.

**6. Are there [national] [state] [territorial] [provincial] or other local 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 governmental permissions, approvals or licenses required for foreign banks or other foreign lenders to make real estate loans secured by real property.

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

There are no legal limits imposed on the amount of interest that may be charged on a loan secured by real property. The interest is defined by the market and may be contractually agreed upon by the parties pursuant to the freedom of contract principle, as set forth under the Civil Code.

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

There are no restrictions to make a borrower or guarantor personally liable for indebtedness secured by real property. However, such guarantee shall be specifically stated in the context of the credit agreement or otherwise, in a separate document.