



ISSUES RELATING TO FINANCE

ESTONIA Lepik & Luhaäär LAWIN

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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)?**

In Estonia, the main instrument to create a lien on real estate is establishing a mortgage over the real estate.

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.**

There is no mortgage tax in Estonia. However, to register the mortgage with the Land Register of Estonia (whereas such registration is compulsory and constitutive, i.e. the mortgage is established by the respective entry in the Land Register) a state fee must be paid. The amount of the state fee is provided in the State Fee Act of Estonia, and fully depends on the amount of the mortgage.

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

The creditor is entitled to have his claim satisfied through sale of the mortgaged property by a compulsory auction, or through administering the property on compulsory basis. Sale of real property through a compulsory auction or compulsory administration of the property is conducted by a bailiff in course of enforcement proceedings. An agreement on acquisition of the mortgaged property by the mortgagee if concluded before the claim is due is deemed null and void. Claims secured by real property are satisfied from funds received in course of such

enforcement proceedings. If real property is encumbered with several mortgages, the mortgagees are satisfied according to the rankings of their mortgages. Each following mortgagee will be satisfied only after the mortgagee holding the mortgage of a higher ranking has become satisfied in full. Mortgages obtain their rankings by statutory registration with the Land Register of Estonia.

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

The main cost related to foreclosing of a mortgage is the bailiff fee that is incurred to the debtor. The bailiff fee consists of the fee for commencement of execution proceedings that usually is EEK 250 (excluding VAT 18%), and of the main fee the amount of which depends on the amount of the claim. Furthermore, in case of compulsory sale of real property the bailiff is entitled to additional fee of 3% on the sales price. All the fees are incurred to the debtor but the bailiff may demand the claimant to make a partial advance payment of his fee. The exact amount of the advance payment depends on the amount of the claim; however, for claims exceeding EEK 50,000 the amount of the advance payment is EEK 3,000, and for claims exceeding EEK 9,000,000 – EEK 5,000. If the claimant is requested to make an advance payment of the bailiff fee, the amount paid in advance will be returned to the claimant after the debtor has paid the bailiff fee.

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

The time period for foreclosing a mortgage differs so extensively that a generalization can be hardly made. The minimum time period could be a month but usually foreclosing of a lien on real property takes several months, in rare cases even years.

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 that are required for foreign banks or other foreign lenders specifically to make real estate loans secured by real property. However, such banks or other lenders are subject to general requirements established for any credit institutions.

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

Laws provide for no limits on the amount of interest charged on a loan secured by real property.

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

Estonian laws provide for no restrictions on making a borrower or guarantor personally liable for indebtedness secured by real property.