



ISSUES RELATING TO FINANCE

ICELAND LOGOS Legal Services

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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 normal form.

- 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.**

According to Article 24 of Act no. 36/1978 on stamp duty loans secured by real estate are subject to a stamp duty of 1,5% of the loan amount.

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

A lien secured by real property is foreclosed by a forced sale of the real estate which is carried out by the Magistrate.

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

There are legal/filing costs relating to a forced sale of real estate. Article 5 of Act on extraordinary fiscal earnings of the state treasury, no. 88/1991, states that when a request for a forced sale of real estate is made to the Magistrate, 1% of the amount of the debt shall be paid to the state treasury. The payment shall never be less than 140\$ or more than 480\$ (approximate USD amounts). All costs relating to a forced sale of real estate are paid by the proceeds derived from the forced sale.

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

Up to three months notice period followed by sale procedures that could take between six to twelve months until closing of the sale.

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.

The financial activities of a foreign financial undertaking in Iceland are either subject to an operating license or authorization from the Financial Supervisory Authority. However, there are no restrictions especially on real estate loans. The Financial Undertakings Act (FUA), no. 161/2002, applies to the activities of foreign financial undertakings in Iceland. A foreign financial undertaking from other member states of the European Economic Area (EEA), which is established and holds an operating license in such member state of the European Economic Area (EEA), may, according to article 31, establish a branch in Iceland. The branch may pursue any of the activities covered by the FUA. According to article 32 a foreign financial undertaking, which is established and has an operating license in another member state of the EEA, may provide services in Iceland in accordance with the FUA without establishing a branch. Insofar as concerns foreign financial undertakings from countries outside the EEA, the Financial Supervisory Authority may, under Article 33 of the FUA, authorize such a financial undertaking to open a branch in Iceland or to provide services in this country without establishing a branch. The requirement for the granting of such authorization is that the undertaking be authorized to pursue activity in its home state parallel to that which it proposes to pursue in Iceland and that such activity be subject to comparable supervision in the home state.

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 on the amount of interest which may be 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.

None.