



ISSUES RELATING TO FINANCE

KUWAIT

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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)?**

An official instrument is used to conclude mortgage of the real estate. The parties are required to execute the official instrument before a Notary Public at the Ministry of Justice. Further, all mortgages pertaining to real estates must be registered with the Real Estate Registration and Authentication Department at the Ministry of Justice.

- 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 Kuwait.

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

A lien secured by real property shall not be foreclosed without the intervention of the court. The procedure is such that an application has to be made for attachment of the real property before the execution department and a case for determining the value of the property has to be filed before the Kuwaiti courts. The execution department under the supervision of the court and as per the procedures prescribed under law shall conduct the sale of the property by auction. It should be noted that only Kuwaiti's can own real estates in Kuwait.

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

There are no significant legal/ filing costs relating to foreclosing of a lien.

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 is 6 months to 1 year.

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 is no requirement of a local governmental permission, approval or licenses required for foreign banks or foreign lenders to make real estate loans secured by real property, provided the agreements pertaining thereto are executed and accepted outside Kuwait. Dispute resolution clause and the governing law set in the agreement should be foreign.

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

The legal rate of interest prescribed by law is seven percent from the date of maturity of payment. The contracting parties may agree on another rate of interest, provided it is not in excess of the declared rates of the Central Bank of Kuwait.

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

None.