



## **ISSUES RELATING TO FINANCE**

### **LITHUANIA**

#### **Lideika, Petrauskas, Valiunas ir partneriai 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)?**

A mortgage is the most common, effective and cost-friendly instrument for creation of a lien on real estate in order to secure indebtedness.

- 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.**

Executing a mortgage involves two types of fees: (i) a notary fee for notarization of a mortgage bond and (ii) a fee for registration of the mortgage bond with the Hypothec Register. Both fees are minor and capped: a notary fee cannot exceed LTL 500 (approx. EUR 145), while registration fee cannot exceed LTL 400 (approx. EUR 116) per one mortgage bond.

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

The secured creditor may satisfy its claim either (i) by way of enforced sale of the mortgaged property through an auction procedure or (ii) by way of administration of the mortgaged property and collection of income there from (rarely applied in practice). In both cases the creditor must follow the prescribed statutory procedure. The foreclosure of the mortgage is administered by and is implemented through the Hypothecary divisions at the local courts.

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

Generally, the foreclosure of a mortgage involves (i) minor state fees for filing of an application with a hypothecary judge for commencement of the enforcement procedures and (ii) bailiff's charges for carrying out of respective enforcement procedures. The latter depend mainly on the amount of the debt to be recovered, also the amount actually recovered and the scope of actions that need to be performed in the course of foreclosure (e.g. attachment of property, valuation of property, announcement of auctions, obtaining of experts' opinion, etc.).

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

Based on the statutory terms, in the best case scenario the entire foreclosure procedure could take approx. 3 months (if the procedure is not contested, the property is sold in the first auction, etc.). However, in practice this period may extend substantially if the mortgaged property is non-liquid or if the procedure is challenged by the parties concerned.

**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.**

No.

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

Generally there are no limits. However, all transactions between related parties should be effected based on the arm's length principle. This means that transaction between related parties should be made under such (market) conditions (including the amount of interests charged on a loan) as if the parties to the transaction were not related. Further, the Lithuanian laws expressly state that the interest charged on the loan granted to a company by its shareholders may not exceed the average interest rate applied by commercial banks at the place of residence or business of a lender.

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

None.