



ISSUES RELATING TO FINANCE

NEW ZEALAND Simpson Grierson

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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 registered memorandum of mortgage is the usual form.

- 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 New Zealand.

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

There is a statutory process that must be followed which overrides anything to the contrary in the mortgage form itself.

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

There are statutory requirements to be met and legal/filing costs relating to forced sale of real estate are approximately US\$2,500 for a straightforward transaction.

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

Twenty working day notice period followed by sale procedures that could take between 2 and 3 months until settlement of the sale.

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. There are no restrictions on foreign lenders securing their advances over real estate in New Zealand. However, on any mortgagee sale lenders would need to comply with the requirements concerning foreign ownership of land should any purchaser or the land being sold fall within the requisite criteria. Refer to Survey I answer regarding the foreign ownership criteria in New Zealand.

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

There are some statutory controls (and private and government agencies that monitor and report on interest charges) that ensure that interest rates and costs are not excessive or illegal.

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

None.