



ISSUES RELATING TO FINANCE

PERU

Estudio Olaechea

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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 Public Deed of Mortgage is the typical instrument used to create a lien on real estate. It is recorded in the Public Registry.

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 Peru.

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

There is a judicial foreclosure that must be followed before the Civil or Commercial Lower Court.

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

Besides the judicial costs for a foreclosure suit, there is no other significant cost or impediments.

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

Generally, the foreclosure suit takes approximately between one to two years. This is due to the fact that the proceedings begin in the Lower Court, then the concerned party may appeal before the Superior Court, and finally before the Supreme Court.

- 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 authorizations needed by foreign banks or other foreign lenders to make real state loans secured by real property. However, if the mortgage is going to be registered in Peru, then the foreign bank and/or the foreign lender should have a power of attorney authorizing them to secure the real property and thus, duly register it before the Peruvian Public Registry.

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

If the loan agreement is carried out in Peru by a foreign lender, then the interest limits are established by the Peruvian Central Bank. Any excess above the maximum rate will be reimbursed to the debtor. If the loan agreement is carried out by a bank then there are no limits established.

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

None.