LEX MUNDI PUBLICATION

Issues Relating To Finance

URUGUAY
Guyer & Regules

CONTACT INFORMATION
John Stuart Leaman
Guyer & Regules
Plaza Independencia 811 PB
598.2.902.1515 ext. 141
jsleaman@guyer.com.uy
www.guyer.com.uy

1. What instruments are used to create a lien on real estate to secure an indebtedness (e.g., a mortgage or deed of trust)?

All liens on real estate such as mortgages or trusts must be executed before a notary public in the form of public deed.

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.

A mortgage agreement by virtue of which a lien is created on real estate must be filed before the Real Estate Registry of the department where the real estate is located. The mortgage agreement is not taxed and only a very minor registration fee must be paid. Notwithstanding the above and due to the fact that the mortgage must be executed before a notary public, the fees of the same will be applicable at a rate of 3% of the secured debt, plus VAT.

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

Foreclosure proceedings must be followed before the pertinent courts in order to obtain the sale of the real property in a public auction. The creditor will recover his credit from the proceeds of such auction and remaining amounts after expenses and fees are covered will correspond to the debtor. Under Uruguayan law a mortgagee may not take possession of the mortgaged property to cover for the secured amount.

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

There are no significant costs regarding such procedure other than the foreclosure tax (1% of the debt to be recovered) and the forced sale tax (2% of the sales price).

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

The standard term of a mortgage foreclosure proceeding is of approximately two and a half years (in the case that the debtor does not opposes defenses).

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 provisions exist under Uruguayan law establishing any sort of authorization or registration for foreign banks or lenders to make real estate loans secured by real property.

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

Uruguayan legislation has imposed legal limits on the admissible interest rates which depend on the amount of the secured loan. Should the loan be of less than 2.000.000 Unidades Indexadas (currently equivalent to approximately USD 176.000) interest rate may not exceed 60% of the average rates of the previous three-month period published by the Central Bank of Uruguay. If the amount of the loan exceeds 2.000.000 Unidades Indexadas, then the admissible rate may not be of more than 90% of the said rates.

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

Uruguayan legislation does not establish any restriction in the matter consulted.