

Decision of Chairman of the Municipal Affairs Department

No. (249) of 2015

Issuing the Executive Regulations on Mortgages Pursuant to Law No. (3) of 2015

Regulating Real Estate Sector in the Emirate of Abu Dhabi

Chairman of the Department of Municipal Affairs:

Having reviewed:

- Law No. (1) of 1974 concerning the reorganization of the Governmental Body in the Emirate of Abu Dhabi and its amendments;
- Law No. (3) of 2005 concerning the regulation of the real estate registration in the Emirate of Abu Dhabi;
- Law No. (19) of 2005 concerning real estate ownership, and its amendments;
- Law No. (9) of 2007 concerning the establishment of the Department Municipal Affairs;
- Law No. (3) of 2015 Concerning the Regulation of the Real Estate Sector in the Emirate of Abu Dhabi .
- Federal Law No. (5) of 1985 concerning the issuance of the Civil Transactions Law, and its amendments;
- And acting upon what was presented to and approved by the Executive Council,

Decided:

Article (1)

Definitions

In application of the provisions of this Law, the following terms and expressions shall have the meanings assigned thereto, unless the context requires otherwise:

Department	:	The Department of Municipal Affairs.
Municipality	:	Abu Dhabi City Municipality or Al Ain City Municipality or the Western Region Municipality and any Municipality that may be established in the future in the Emirate.
Real Estate Register	:	The Real Estate Register established according to the provisions of Law No. (3) of 2005 concerning the regulation of real estate registration in the Emirate of Abu Dhabi.

Initial Real Estate Register:	:	The hand-written or electronic register prepared for the registration of all dispositions and rulings related to the real estate units sold off the plan.
Registrar	:	The manager of the real estate registration division in the municipality and any authorized employee regarding the Real Estate Register or the Initial Real Estate Register.
Mortgage	:	A contract whereby the creditor acquires, with regard to the mortgaged property allocated for the repayment of his debt, a real right or a contractual benefit whereby he has priority over ordinary creditors and other lower ranking creditors.
Mortgagor		The debtor who owns the property right or the contractual right, inclusive of the corporeal guarantor who is indebted by virtue of a mortgage.
Mortgagee		The creditor who lends the Mortgagor against the security of a mortgage on real estate.
Mortgaged Property	:	The real estate, the real right or the contractual right related to a property right, encumbered for the benefit of the mortgagee.
Mortgage Deed		The deed issued by the department by virtue of Article No. (3) of these executive regulations.
Priority Bond Deed		A bond between a number of mortgagee creditors who have the right to mortgage the same property, according to which one or more mortgagees agree to delay the arrangement of its right in favor of another mortgagee.

Article (2)

Mortgage Registration and Documents to be presented

1. The mortgage shall be recorded in the Initial Real Estate Register or the Real Estate Register as the case may be on the form prepared for that by the Department.
2. The application for the registration of the mortgage shall be submitted to the registrar, signed by the mortgager (debtor or in-kind surety) and mortgagee or in-kind surety.
3. The applicant for mortgage registration must attach the following documents:

- a) Three copies of the mortgage contract regulated according to form approved by the Department.
 - b) If the mortgagee creditor was a bank, a company, or a financing institution, they must be licensed and duly registered with the Central Bank pursuant the provisions of Article (32) of the Law.
 - c) Original title deed or initial registration certificate for the mortgaged property and a proof of its registration with the Real Estate Register.
 - d) A no-objection notice submitted by the mortgagee creditor in the event of an existing mortgage on the form approved by the Department for that purpose.
 - e) Receipt of payment for the fees of submitting the application and registration thereof.
 - f) Any other documents or information the Department needs.
4. In the event that the mortgagor is a natural person in the country, he must submit the following documents, in addition to what was mentioned in clause (3):
- a- Copy of ID or a valid passport and the residence visa for non-resident foreigners as the case may be.
 - b- Valid address of residence and both landline and mobile phone numbers.
 - c- E-mail to receive notifications and other correspondence from the Department.
5. If the mortgagor is a legal person, the following documents, in addition to what was mentioned in clause (3), must be submitted:
- a) Copy of the commercial license valid at the time of submitting the application (if the corporation is registered in the country).
 - b) Copy of his registration certificate valid at the date of submitting the application (if the corporation company is non- resident/ not registered in the country).
 - c) Memorandum and articles of association of the corporation.
 - d) Names of directors and shareholders in the corporation and their nationalities.
 - e) E-mail to receive notifications and other correspondence from the Department.
6. All documents to be attached to the mortgage registration application must be certified and translated into Arabic in the manner set by the Department if it is a foreign corporation.

7. Both parties to the contract or their legal representatives must attend to sign the contract before the registrar, and if one of the owners is a minor, approval on mortgage from the competent court must be submitted.

Article (3)
Mortgage Deed

1. A mortgage contract regulated according to the standard form endorsed by the Department shall be deemed, upon registration, an executive deed pursuant to the provisions of Article (57) of this Law.
2. Both the mortgagor and the mortgagee shall submit a copy of the mortgage deed signed and stamped by the registrar, as soon as possible after the mortgage registration.
3. A mortgage deed may be electronic according to what is decided by the Department and shall be considered as having the binding force of an official document in evidence.

Article (4)
Transfer of Mortgage Rights

1. The mortgagor wishing to dispose of the mortgaged property through sale, gift, by any other means, or entail any other real or personal right thereon, shall obtain the approval of the mortgagee, unless otherwise agreed pursuant to the provisions of article (38) of the Law.
2. The mortgagor must conclude with the mortgagee the deed of Hawala (transfer) of mortgage rights transferred thereto, and to submit the said deed to the Department as soon as possible.
3. The application for the Hawala (transfer) of mortgage rights shall be submitted on the standard form approved by the Department, attached with four copies of the Hawala (transfer) deed and an original copy of the mortgage deed signed and stamped, and attached also with all documents mentioned in article (2) of these executive regulations as the case may be.

Article (5)
Stamping and Signing the Hawala Deed and Transfer of Mortgage

1. The application for the Hawala (transfer) of the mortgage regulated according to the standard form endorsed by the Department shall be deemed, upon registration, an executive deed pursuant to the provisions of article (57) of this Law.

2. The mortgagor, the mortgagee, and the transferee shall submit a copy of the mortgage deed signed and stamped by the registrar, as soon as possible after the mortgage registration.
3. A mortgage deed may be electronic according to what is decided by the Department and shall be considered as having the binding force of an official document in evidence.

Article (6)

(Waiver of Mortgage Rank)

Subject to clause (2) of article (43) of this Law, the mortgagee creditor wishing to waive his mortgage rank to another mortgagee holding an insurance right over the same real property shall conclude a priority deed with the said mortgagee and any other mortgagee whose rank will be affected. The first mortgagee shall submit to the registrar an application with the following documents attached:

1. A deferral of the mortgage on real estate (copies equal to the number of parties) as per the standard form approved by the Department.
2. Priority bond (copies equal to the number of parties) as per the standard form endorsed by the Department.
3. Original mortgage documents signed and stamped for each of the mortgages affected by the delayed ranking.
4. A no-objection notice from the mortgagee creditor with the highest rank in any mortgages in the priority bond of an existing mortgage if present, in which the mortgagee creditor agrees to delay of his mortgage ranking.
5. A proof of paying the prescribed fees.
6. Any other documents or information required by the Department.

Article (7)

Payment of Mortgage-Secured Debt

1. If the mortgage-secured debt is paid, the mortgagor or the mortgagee may submit, individually or collectively, an application to the registrar on the form approved by the Department to discharge the mortgage with the following documents attached:
 - a. A no-objection notice on the form approved by the Department for such purpose from the mortgagee creditor to discharge the mortgage.
 - b. A proof of paying the mortgage-secured debt.
 - c. A proof of paying the prescribed fees
 - d. Any other documents or information required by the Department.

2. The application for discharge of mortgage that is regulated according to the approved form mentioned in clause (1) of this article shall be deemed after its registration an official deed for mortgage discharge.
3. Both the mortgagor and the mortgagee shall submit a copy of the mortgage redemption deed signed and stamped by the registrar.

Article (8)

Strikethrough in the Real Estate Register And Title Deed

After registering the mortgage discharge, the Department shall remove the encumbrance from the Initial Real Estate Register or the Real Estate Register as the case may be, and strike through the mortgage mark from the title deed of the mortgaged property or a part thereof related to mortgage.

Article (9)

Mortgages Related to Musataha, Usufruct and Long-Term Lease

1. Subject to Articles (49, 50 and 52) of the Law, the usufructuary or holders of Musataha right for more than 10 years , or long-term lease , or buyer of any property right may place a mortgage on his right in accordance with the conditions and provisions set forth in this Law.
2. Subject to Article (51) of this law and after the expiry of the mortgage-secured debt or the expiry of the term of Musataha, Usufruct, or long-term lease agreements on which a mortgage was placed, the registrar shall remove the encumbrance of mortgage sign from the Initial Real Estate Register or the Real Estate Register as the case may be and shall strike through the mortgage mark from the title deed of the mortgaged property.
3. The conditions and provisions set forth in article (7) above shall apply in considering the request for striking through the mortgage sign (i.e., removing the encumbrance) in the event of the lapse of the mortgage or the rights pertaining thereto.

Article (10)

Notifications of Violation of Mortgage

1. The mortgagee shall, prior to the initiation of the procedures of foreclosure of the mortgaged property and submission of a request before the judge of urgent matters to attach the mortgaged property and offer it for sale in public auction, send a written notification to the mortgagor and guarantor, if any, by registered mail, return receipt requested to inform the latter of the occurrence of violation and to claim the

settlement of the debt and other dues within a period of no less than (30) days from the date of notification.

Article (11)

Right of Real Estate Registration Division to Request Documents and Information

1. If the Real Estate Registration Division in the Municipality finds that any application to register any document by virtue of the provisions of these executive regulations, including any documents or information that must be attached to the application, is incomplete, it may request the applicant to complete it.
2. The Real Estate Registration Division in the Municipality may set a deadline for correcting and completing the attachments of the application set forth in clause (1) of this article. If the applicant fails to comply with what the Department requires within the prescribed deadline, it may reject the application to register the document.
3. If the Real Estate Registration Division at the Municipality issued a rectification request as regards the application for registering any document by virtue of the provisions of these executive regulations, the prescribed fees shall be paid

Article (12)

The Department shall issue decisions, instructions, directives and forms necessary to implement the provisions of these executive regulations.

Article (13)

This decision shall be published in the Official Gazette and shall become effective from the date of enforcement of the provisions of the Law.

Saeed Eid Al Ghafli

Chairman of the Department of Municipal Affairs

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