

Law No. (14) of 2008 Concerning Mortgages in the Emirate of Dubai

WE, Mohammed bin Rashid Al Maktoum, Ruler of Dubai

After taking cognisance of Federal Law No. 5 of 1985 regarding civil transactions, as amended;

Federal Law No. 8 of 2004 regarding financial free zones;

Law No. 7 of 2006 regarding real estate registration in the Emirate of Dubai;

Regulation No. 3 of 2006 designating the areas in which non-UAE nationals may own freehold property in the Emirate of Dubai;

Law No. 8 of 2007 concerning real estate development trust accounts in the Emirate of Dubai;

Law No. 27 of 2007 on ownership of jointly owned properties in the Emirate of Dubai; and

Law No. 13 of 2008 regulating the interim real estate register in the Emirate of Dubai

Issue the following Law:

Section One Definition & General Provisions

Article (1)

This Law shall be called "**Law No. (14) of 2008 Concerning Mortgages in the Emirate of Dubai**".

Definitions

Article (2)

The following words and expressions shall have the meanings set out opposite them unless the context otherwise requires:

Emirate:	Emirate of Dubai.
Department:	Department of Lands & Properties.
Head:	Head of the Department.
Property:	Land and permanent structures erected on it which may not be moved without suffering damage or alteration.
Property Unit:	The subdivided part of the Property including any subdivisions shown off-plan.
Real Estate Register:	A set of documents kept in written or electronic form at the Department which provide an up-to-date record of real rights in Property.
Interim Real Estate Register:	A set of documents kept in written or electronic form at the Department in which all contracts for the sale of Property and other legal dispositions off-plan are recorded first before being transferred to the Real Estate Register.
Mortgage:	A contract whereby a creditor acquires security over Property or a Property Unit for the repayment of his debt, ahead of ordinary creditors and lower ranking creditors, from the value of the Property wherever located and by whomsoever held.
Mortgagor:	The owner of the Property or the holder of the right in-rem or personal right under the contract of sale signed with the owner of the Property which is marked as sold off-plan and is registered in the real estate register or the interim real estate register.
Mortgagee:	A creditor who lends money to a mortgagor against the security of Property that exists ipso facto or ipso jure.

Article (3)

The provisions of this Law apply to the Mortgage of Property and Property Units as security for debt. It makes no difference whether the debt is secured by a charge over the whole of the Property or over an undivided interest therein or by right in-rem or personal right over a Property marked as sold off-plan.

Article (4)

The Mortgagee/creditor should be a bank, company or financial institution that is duly licenced and registered with the UAE Central Bank to provide finance for Property in the UAE.

Article (5)

1. The Mortgagor must be the owner of the Mortgaged Property or Property Unit and in a position to dispose of the same.
2. The Mortgagor can be the debtor or guarantor in rem who executes a Mortgage on behalf of the debtor.
3. Subject to Articles 22, 23 & 24 of this Law, a Mortgage over Property or a Property Unit must be shown to exist ipso facto or ipso jure off-plan when the Mortgage is made.
4. A Mortgage may only be created over Property or a Property Unit that is capable of being disposed of.

Article (6)

A Mortgage includes all appurtenances to the Property or Property Unit including buildings, plants, assigned/apportioned properties and any improvements made after the Mortgage contract.

Article (7)

1. A Mortgage is not valid unless it is registered with the Department and any agreement to the contrary is void.
2. The Mortgagor shall bear the costs of the contract unless otherwise agreed by the parties.

Article (8)

1. Mortgage applications shall be filed with the Department and shall be signed by the Mortgagor and Mortgagee or the guarantor in rem, if any, including the following particulars:
 - a) All information related to the Property
 - b) Value of the Property
 - c) Value of the debt
 - d) Mortgage term
 - e) Personal details of the Mortgagor, Mortgagee and guarantor in rem including domicile and place of residence.
2. The mortgage contract shall be signed using the standard form of the Department and the Real Estate Register or Interim Real Estate Register, as the case may be, shall be updated accordingly. The ranking of the Mortgage is determined by its date of registration.
3. The Department shall give the contracting parties a mortgage deed bearing the signature of the competent officer and the seal of the Department.
4. The mortgage deed can be in electronic form and is admissible as evidence on the same basis as a written mortgage deed.

Article (9)

The Mortgage must secure a debt that is owing or promised at the conclusion of the Mortgage.

Section Two Legal Effects of Mortgage

Article (10)

The Mortgagor shall not sell, gift or otherwise dispose of the Mortgaged Property Unit or Property or create any right in-rem or personal right over the Mortgaged Property Unit or Property without the approval of the Mortgagee and subject to the assignee agreeing to take over the obligations of the Mortgagor under the mortgage contract. The Mortgagee may in the mortgage contract stipulate joint liability of the mortgagor and assignee for those obligations.

Article (11)

If a clause in the mortgage contract gives the Mortgagee title to the Mortgaged Property when the Mortgagor fails to pay the mortgage debt within the specified period or provides for the sale of the mortgaged Property without taking the statutory steps, the Mortgage shall be considered valid but in either case the clause is void. The clause is also void if included in a subsequent agreement.

Article (12)

The Mortgagor has the right to administer his mortgaged Property and collect its yield and revenue until it is foreclosed and sold at a public auction upon default of paying the debt.

Article (13)

Where loss or damage occurs to the mortgaged Property, the Mortgage shall attach to substitute assets and the Mortgagee may cover his claim from those assets in the order of its priority.

Article (14)

The debt may only be covered out of the mortgaged Property and the guarantor in kind may not seek recourse against the debtor's assets before enforcement against the mortgaged Property.

Article (15)

1. The Mortgagee may assign his rights subject to the consent of the debtor. The assignment deed shall be registered with the Department.
2. The Mortgagee/creditor can, up to the value of his debt, assign the rank of his Mortgage to another creditor having a security interest in the same Property.

Article (16)

A Mortgage secures only the amount specified in the mortgage contract unless otherwise provided by law or agreement.

Article (17)

The rank of a Mortgage is determined by the serial number under which it is registered with the Department. In case several applications are submitted at the same time to register a Mortgage against the same debtor and over the same Property, the Mortgages shall be registered under the same number and those creditors shall rank equally in the distribution of auction proceeds.

Article (18)

A Mortgagee/creditor may follow the mortgaged Property into the hands of any person in possession thereof in order to obtain payment of his claim when due according to rank. A person shall be deemed in possession of the Property if he acquires title to the Property after it has been mortgaged or acquires any other right in- rem or personal right over the Property.

Article (19)

The Mortgagor will guarantee the mortgaged Property and keep it in good condition until the debt is repaid. The Mortgagee may protest any deficiency in the guarantee and take whatever legal action is necessary to protect his rights and recover the costs from the Mortgagor.

Article (20)

A Mortgage terminates upon repayment of the secured debt.

Section Three Special Mortgages

Article (21)

A Musataha holder may mortgage buildings or plants over the term of the Musataha without having the right to mortgage the land that is to be developed unless otherwise agreed.

Article (22)

The holder of usufruct or long term lease for a term between 10 and 99 years may Mortgage his interest in the Property or Property Unit for the term of the usufruct or long term lease.

Article (23)

A Mortgage over rights of musataha, usufruct or long term lease shall terminate and be deleted from the register upon repayment of the debt secured by the Mortgage or upon expiry of the term of the musataha, usufruct or long term lease.

Article (24)

The purchaser of Property Units or Property that are marked as sold off-plan or are under construction may mortgage them as security for the debt provided that those units or Property are registered in the Interim Real Estate Register maintained by the Department.

Section Four

Execution Proceedings on the Mortgaged Property

Article (25)

Upon default in payment of the debt when due or upon fulfillment of a condition granting early repayment status, the Mortgagee/creditor or his universal or singular successor must provide the debtor or person in possession of the mortgaged Property or Property Unit 30 days notice through the Notary Public before commencing execution proceedings.

Article (26)

If the Mortgagor/debtor or his universal or singular successor or the guarantor in rem fails to pay the Mortgage within the period specified in the preceding Article, the execution judge shall, upon request of the Mortgagee/creditor order an attachment against the mortgaged Property so that it can be sold by public auction in accordance with the applicable procedures of the Department.

Article (27)

Subject to the preceding Article, the execution judge may, upon request of the debtor or his guarantor in rem, postpone the sale by public auction for up to 60 days and for one time only if he finds that:

- a) the Mortgagor/ debtor will be able to repay his debt if given this period.
- b) sale of the mortgaged Property or Property Unit will cause the debtor substantial damage.

Article (28)

Subject to Articles 25, 26 & 27 of this Law, failure to pay the debt within the stipulated period will cause the mortgaged Property to be sold by public auction in accordance with the applicable procedures of the Department within 30 days after the end of the relevant period referred to in either article.

Article (29)

The debtor or his guarantor in rem may repay the secured debt and its ancillaries before the due date.

Article (30)

The claims of Mortgagees/creditors shall be paid out of the price of the Property Unit or Property or out of the substitute assets in order of priority even if the Mortgages had all been registered the same day. If the sale proceeds are not sufficient to cover the claim of a creditor, such creditor can claim the difference from the debtor.

Section Five Closing Provisions

Article (31)

The Civil Transactions Code (Federal Law No. 5 of 1985), as amended, and the Civil Procedure Code (Federal Code No. 11 of 1992) shall apply to any matter for which no provision is made in this Law.

Article (32)

Property granted by the government to UAE citizens and such-like persons for commercial and residential purposes is excluded under this Law and is subject to the applicable orders and directives of the Ruler and the decisions in implementation thereof.

Article (33)

Mortgage deeds that are duly registered pursuant to this Law are binding upon third parties.

Article (34)

The Head of the Department shall issue the decisions necessary for implementing this Law.

Article (35)

This Law shall be published in the Official Gazette and shall take effect 60 days after publication.

**MOHAMMED BIN RASHID AL MAKTOUM
RULER OF DUBAI**

Issued in Dubai on 14th August 2008
13 Shaban 1429 Hegira