Moldova
Mortgage Law
(adopted on 2 September 2008)

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The Parliament hereby adopts this organic law.

Chapter I
GENERAL PROVISIONS

Article 1. The scope and sphere of regulation of the law
(1) The scope of this law is aimed at establishing the fundamental principles and rules governing the primary mortgage market, as well as the creation of conditions for the development of the secondary mortgage market.
(2) The sphere of regulation of this law shall comprise legal relations arising in the process and in connection with the rise, validity and termination of mortgage, the exercise of mortgage rights, as well as protection of the rights of the participants in the mortgage legal relations.

Article 2. Legal regulation
(1) Mortgage is regulated by the Constitution of the Republic of Moldova, the Civil code, this law, other normative acts, as well as by international treaties to which the Republic of Moldova is a party.
(2) Mortgage shall be regulated by the general provisions governing pledge unless this law provides otherwise.
(3) If an international treaty to which the Republic of Moldova is a party sets forth provisions different from those contained in this law, the provisions of the international treaty shall apply.

Article 3. Terms and definitions
For the purpose of this law, the terms below shall have the following meanings:
immovable asset – immovable things as defined in accordance with the provisions of the Civil code and future immovable things registered in the Register of immovable property in accordance with the legislation.
mortgage – a real right based on which the creditor is entitled to demand fulfilment of his claims, taking priority over other creditors, including the state, from the value of the mortgaged immovable assets, in cases when the debtor fails to fulfil his mortgage-secured obligation;
mortgage-secured claim – claim secured by a mortgage;
mortgagee – creditor whose claim is secured by a mortgage;
declarant – mortgagor or other person having an obligation to the mortgagee, performance of which is secured by a mortgage;
mortgagor – the person who mortgages one or several immovable assets with the purpose of securing fulfilment of its own obligation or of the obligation of the debtor to the mortgagee;
mortgage guarantor – person mortgaging one or several immovable assets with the aim to secure performance of the debtor's obligation;
mortgage contract – the contract between a mortgagee and a mortgagor based on which the former has the right to demand satisfaction of his pecuniary claims from the value of the immovable asset, in conformity with the law;
priority – the preferential right of a mortgagee over other mortgagees to exercise the mortgage right and over other creditors – to take recourse upon the immovable asset.
Article 4. Mortgage-secured obligations

(1) A mortgage is instituted in order to secure performance of the obligation and is an accessory legal relation towards the secured obligation, being contingent on the duration of the latter, unless the law or the mortgage contract provides otherwise.
(2) The validity of a mortgage depends on the validity of the mortgage-secured obligation.
(3) Mortgage can secure the fulfilment of an obligation arising from credit contracts, loan contracts or other obligations.
(4) Norms on mortgage apply to credit or loan contracts, regardless of their purpose or use.
(5) The mortgage can secure one or several obligations. The secured obligation may be current or future, as well as conditional.
(6) In case of securing a future obligation, the parties shall stipulate expressly in the mortgage contract that the established mortgage will secure fulfilment of any future obligation towards the same mortgagee.
(7) The mortgage established for the purpose of securing the reimbursement of an amount of money shall be valid even if the money is to be disbursed in the future, or when the money is disbursed in instalments.
(8) The mortgage also secures payment of interest, charges, penalties, fines, reparation of damages, court expenses, and other expenses related to execution of the mortgage right, unless the parties agreed otherwise.

Article 5. Mortgage-secured claims

(1) The mortgage-secured claim must be determined or determinable at the moment of execution of the mortgage right.
(2) The mortgage-secured claim must be expressed in money. The mortgage-secured claim may be expressed in national or foreign currency.

Article 6. Grounds for mortgage establishment

(1) A mortgage may be established on the basis of law (legal mortgage) or a contract (contractual mortgage).
(2) Legal mortgage shall be regulated by the provisions on contractual mortgages, unless the law provides otherwise.
(3) Grounds for the establishment of a legal mortgage are as follows:
   a) Claims held by the state for amounts due under tax legislation; or
   b) Claims resulting from court judgments, as established by law.
(4) A legal mortgage shall be established by registration of a notice in the Register of immovable property, specifying the immovable asset that is the object of the mortgage, the grounds for the mortgage and the amount of the claim.
(5) The submitted registration notice shall be accompanied by evidence of its notification to the mortgagor and the court judgement or the document certifying the claims of the state to the mortgagor arising from the tax legislation.
(6) The mortgagor, who registered the legal mortgage, is entitled to take recourse on the mortgaged immovable asset, in accordance with this law.
(7) The priority of the legal mortgage is determined in accordance with the general provisions regarding the priority of mortgage.

Article 7. Object of the mortgage

(1) The object of the mortgage may be one or several immovable assets, which can be identified by separate cadastre numbers.
(2) The object of mortgage is determined by its designation, specifying the cadastral number, its location, as well as the description of the asset, sufficient to allow its identification.

(3) Only immovable assets in civil circuit, held in ownership, and entered in the Register of immovable property may become objects of mortgage.

(4) The mortgage extends over the improvements, upgrades and accessories of the mortgaged immovable asset, over any immovable asset joining the mortgaged immovable asset by way of annexation, as well as over the new assets resulting from the transformation of the mortgaged immovable asset, unless the contract provides otherwise.

(5) The mortgage does not extend over the fruits generated by the mortgaged asset, unless otherwise provided in the mortgage contract.

(6) The contract may provide for a mortgage over immovable assets to be acquired or constructed in the future, in accordance with the applicable legislation.

(7) A mortgage is indivisible and applies in full to all the mortgaged immovable assets, to each one of them and to all their parts, even if the mortgaged immovable asset or the mortgage-secured obligation is divisible.

(8) Immovable assets, which according to the law may not be alienated separately, may not be separate objects of mortgage. A part of the indivisible immovable asset may not be an object of mortgage.

(9) A mortgaged immovable asset shall remain in the ownership of the mortgagor. The mortgage contract may provide for the usage of the object of mortgage by the mortgagee. Where the right over the mortgaged asset is voidable or affected by terms or conditions, it shall give rise to a mortgage equally voidable or affected by terms or conditions.

(10) The risk of the mortgaged asset’s accidental loss or damage shall be borne by the mortgagor unless the mortgage contract provides otherwise.

**Article 8. Valuation of the object of mortgage**

The market and replacement value of the mortgage object shall be established in an appraisal report prepared by an appraiser in accordance with legislation on valuation activity.

**Article 9. Subjects of mortgage**

(1) A mortgagee can be any natural person or legal entity. If two or more persons act as a mortgagee based on the same mortgage contract, these persons will have the same priority ranking, unless the mortgage contract provides otherwise.

(2) A mortgagor is any natural person or legal entity who owns the mortgaged immovable asset, as well as the possessor entitled to alienate such asset.

(3) Both the debtor and the mortgage guarantor can be mortgagors. Where the performance of the obligation by the debtor is secured by a mortgage granted by the mortgage guarantor, the latter shall have the status of a mortgagor.

(4) The debtor and the mortgage guarantor, in their quality of mortgagor, may agree on the conditions for securing performance of debtor's obligations by the mortgage guarantor, as well as on debtor's obligations to the mortgage guarantor in case of execution of the mortgage right by the mortgagee. The absence of such written agreement does not affect the validity of the mortgage.

(5) Where the debtor fails to fulfil the obligations secured by mortgage, the mortgagee is entitled to fulfilment of the mortgage-secured claims by the guarantor on account of the mortgaged immovable asset.

(6) The mortgage guarantor may not oppose his claims to the debtor against fulfilment of the mortgagee's claims on account of the mortgaged immovable asset.

(7) Where the claims of the mortgagee are fulfilled by the mortgage guarantor, including from the value of the mortgaged immovable asset, the mortgage guarantor shall obtain the rights of the creditor of debtor's obligation. After the mortgage guarantor fulfils debtor's obligation, the former shall be entitled to demand from the creditor proof of fulfilment of the obligation, as established by law.
Article 10. Conditions for the establishment of a mortgage

(1) Where the right to dispose of an immovable asset requires a third party's consent, such consent will also be required for the establishment of a mortgage over such immovable asset.

(2) The immovable asset in common ownership may be mortgaged only upon an agreement of all co-owners. In such case each co-owner shall become co-mortgagor.

(3) A co-owner may mortgage its share in the immovable asset owned jointly in shares without the consent of the other co-owners, unless the contract between the co-owners provides otherwise.

(4) The shares in common areas (land plot, roof, staircases, basement, other objects meant for the servicing of the immovable asset) held in common ownership, contiguous to the isolated premises can be mortgaged together with the respective premises without the consent of the co-owners of the common areas.

(5) The immovable asset held by natural persons with limited capability or by minors may be mortgaged upon the fulfilment of the conditions required for alienation.

(6) If at the moment of mortgage establishment there exist rights held by third parties over the respective immovable asset, the mortgagor is bound to notify the mortgagee of this fact in writing. Otherwise, the mortgagee shall be entitled to demand from the debtor early fulfilment of the mortgage-secured obligation or to request amendment of the terms of the mortgage contract and claim damages caused.

Chapter II
THE MORTGAGE CONTRACT

Article 11. Form and content of mortgage contract

(1) The mortgage contract shall be made in writing and authenticated by a notary.

(2) The mortgage must be registered with the Register of immovable property, as per legislation on the cadastre of immovable assets.

(3) The mortgage contract shall contain the following essential clauses:
   a) identification information of the mortgagee and mortgagor and, as the case may be, of the debtor (person’s or company name, domicile or seat, etc.);
   b) express consent of the mortgagor to establish the mortgage in favour of the mortgagee;
   c) determination of the object of the mortgage;
   d) nature of the mortgage-secured obligation as defined by the parties;
   e) the market and replacement values of the mortgaged asset, as established in the appraisal report;
   f) basic value of the secured claim and the order of determination of additional amounts, secured by mortgage.

(4) The parties may also include other provisions in the mortgage contract.

(5) Any clause of a mortgage contract whereby the ownership over the object of mortgage is transferred to the mortgagee, should the debtor fail to fulfil or improperly fulfil their obligations, shall be void.

(6) The mortgage provisions may be included in the contract from which the mortgage-secured obligation arises. In such case, the contract giving rise to the debtor's obligations shall be drawn up in the form required for the mortgage contract and shall contain its essential provisions.

Article 12. Amendments and addenda to the mortgage contract

(1) Any amendment or addition to the provisions of the mortgage contract shall be made in an authenticated form.

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(2) When the amendment of the mortgage contract causes changes in the data entered in the Register of immovable property, the corresponding amendments shall be registered under the procedure established for the registration of mortgage contracts.

Chapter III
MORTGAGE REGISTRATION

Article 13. Mortgage registration body
The mortgage registration body is the territorial cadastre office in whose territorial jurisdiction the mortgaged asset is located.

Article 14. Mortgage registration procedure
(1) A mortgage shall be registered on the grounds of an application, submitted to the territorial cadastre office by the mortgagee, the mortgagor or by their authorized representative. The date of mortgage registration shall be the date of receipt of the registration application in compliance with the procedures set forth by applicable legislation.

(2) The mortgage registration application form shall be accompanied by the following:
   - the mortgage contract authenticated by a notary or the deed serving as grounds for the arising of the right of the mortgagor over the immovable asset subject to mortgage;
   - the document certifying the payment of the registration fee;
   - the document confirming the powers of the representative, as the case may be;
   - other documents as may be needed for the registration of the mortgage, as specified by law.

(3) Mortgage registration may be rejected in cases set forth by legislation on registration of rights over immovable assets.

(4) Where the submitted mortgage registration application concerns an immovable asset, with regard to which there are registered encumbrances or interdictions, mortgage registration shall be suspended until the removal of the entry on interdiction or encumbrance.

(5) The grounded refusal to register the rights on the immovable asset, which is the object of mortgage, must be sent to the applicant within the term established for the registration of these rights.

(6) The mortgage shall be registered by an entry in the Registry of immovable property, in accordance with the legislation. The registrar shall apply the seal of the registering body on the counterparts of the mortgage contract or, as the case may be, on the document serving as grounds for the arising of the mortgage right of the mortgagee.

(7) Expenses related to registration of a mortgage, as well as those associated with the amendment or addenda to the mortgage contract, shall be borne by the mortgagor, unless the mortgage contract provides otherwise.

Article 15. Consequences of registration
(1) The mortgage is valid as of the date of its registration in the Register of immovable property.

(2) Information on mortgage entered into the Register of immovable property is presumed to be legal and true.

(3) Mortgage is opposable to third parties as of the moment of mortgage registration with the Register of immovable property.

(4) The procedure for issuance of information from the Register of immovable property, information that does not have a public character, as well as the liability of the cadastral authority personnel for failure to fulfil their obligations is set forth by the legislation on the cadastre of immovable assets.
Article 16. Simultaneous submission for registration of ownership title and mortgage

(1) The notary shall be obliged to authenticate the mortgage contract based on sale-purchase contract not yet registered in the Register of immovable property in case where mortgage is granted for purchase of the object of sale-purchase agreement.

(2) The contract of sale and purchase and the mortgage contract shall be submitted to the territorial cadastral office simultaneously for registration of parties' rights. The right of ownership and the right of mortgage over the immovable asset shall be registered successively.

Article 17. Subsequent mortgage

(1) The immovable asset mortgaged in order to secure the fulfilment of a certain obligation (preceding mortgage) may be mortgaged to secure the fulfilment of another obligation of the same or another debtor in favour of the same or another mortgagee (subsequent mortgage).

(2) Subsequent mortgage is allowed unless the terms of the preceding mortgage provide otherwise.

(3) Any subsequent mortgage established in breach of paragraph (2) of this Article or contrary to the conditions of the preceding mortgage shall be void and any aggrieved person will be entitled to claim damages.

(4) The subsequent mortgagee shall notify all preceding mortgagees of his intention to exercise its mortgage right. Within 15 working days as of the date of notification receipt, any preceding mortgagee may demand from the debtor early performance of the mortgage-secured obligation and, as the case may be, exercise its mortgage right.

(5) If no notice of the intention of the preceding mortgagee to exercise its mortgage right has been received by the subsequent mortgagee within the term set forth in paragraph (4) above, the latter is entitled to exercise its mortgage right.

(6) The preceding mortgagee shall exercise its mortgage rights without undue delay.

(7) The preceding mortgagee, who has not been notified as provided by this law, is entitled to claim from the subsequent mortgagee compensation for the damage caused.

(8) The priority ranking as defined in Article 18 is maintained for the distribution of proceeds obtained from the foreclosure of the mortgaged asset.

Article 18. Mortgage priority

(1) The priority of satisfaction of the mortgagees’ claims corresponds to the chronology of registration of the mortgage rights, unless the written agreement between the mortgagees provides otherwise.

(2) The mortgage-secured claims of the subsequent mortgagee shall be satisfied only after full satisfaction of the mortgage-secured claims of the preceding mortgagee.

Article 19. Public access to information

State registration of a mortgage is public. Any person is entitled to access information from the Register of immovable property in accordance with the requirements of the applicable law.
Chapter IV
CONSERVATION OF THE OBJECT OF MORTGAGE

Article 20. Use of the object of mortgage
(1) The object of the mortgage may be used by the mortgagor or by a third party acting on its behalf, unless otherwise provided by the mortgage contract.

(2) The mortgaged asset may not be conveyed by the mortgagor for gratuitous or onerous use without the written consent of the mortgagee, unless otherwise provided in the mortgage contract.

(3) The mortgagor is entitled to collect the fruits produced by the mortgaged asset until the commencement of execution of the mortgage rights.

Article 21. Conservation, maintenance and repair of the object of mortgage
(1) Unless the mortgage contract provides otherwise, the mortgagor is under the obligation to conserve, maintain, avoid destruction and damage, and refrain from any other diminution of the value of the mortgaged asset, in excess of the natural wear of the asset.

(2) Unless the mortgage contract provides otherwise, the mortgagor is under the obligation to bear all the costs associated with the maintenance of the object of mortgage including those for the protection of the object of mortgage against damage done by third parties.

(3) Where the mortgaged asset is threatened by loss or damage, as well as in other cases which can affect the rights of the mortgagee under the mortgage contract, the mortgagor is bound to inform the mortgagee immediately of such circumstances.

(4) Change of destination, replanning, building additions, as well as demolition, even if partial, of the object of mortgage are allowed only subject to the written consent of the mortgagee.

Article 22. Insurance of the object of mortgage
(1) The mortgagor is under the obligation to insure the mortgaged asset at its replacement value for the benefit of the mortgagee, against all the risks of accidental loss or damage. If the mortgagor fails to insure the mortgaged asset, the mortgagee is entitled to do so at the mortgagor’s expense.

(2) Where the amount of compensation paid by the insurer to the mortgagee exceeds the balance of mortgagee's claims to the mortgagor, the former shall reimburse the difference to the mortgagor or to their successors.

(3) The mortgage contract may set forth a requirement concerning the life insurance of the debtor up to the amount of the outstanding debt throughout the entire term of the mortgage.

(4) The insurance shall be contracted from an insurance company agreed with the mortgagee. The mortgagee does not have the right to impose a certain insurer.

(5) Insurance of a mortgaged asset is not mandatory in case of subsequent mortgage, where the mortgaged asset has already been insured under a preceding mortgage.

Article 23. Protection of object of mortgage against rights of third parties
(1) If third parties assert claims to the mortgagor concerning recovery, encumbrance, recognition of right of ownership or of other rights over the object of mortgage, the mortgagor is bound to undertake all legal action necessary to defend its legitimate rights.

(2) In all cases when the rights of the mortgagor are challenged, including the case of filing a lawsuit in court, based on claims specified in paragraph (1) of this Article, the mortgagor shall be bound to notify the mortgagee in writing of the fact within three days as of the moment when the mortgagor became or should have become aware of the attempt on their rights. In case of failure to notify or improper notification under this paragraph, the mortgagee shall be entitled to request early fulfilment of the mortgage-secured obligation and compensation of damage caused.
(3) If the mortgagor fails to ensure protection of its rights, including entering into a settlement, the mortgagee is entitled to undertake all legitimate defences on behalf and at the expense of the mortgagor without any explicit authorization to this effect from the latter. The mortgagor shall repay all such expenses of the mortgagee unless he proves these are unjustified or unreasonable.

Article 24. Inspection of object of mortgage

(1) Within the validity period of the mortgage contract, the mortgagee is entitled to verify the legal and factual existence, physical standing, maintenance, conservation and usage conditions of the mortgaged asset, contingent on prior notification of the mortgagor and, as the case may be, of the holder of the mortgaged asset.

(2) The mortgagor is under the obligation to refrain from hindering the verification of the object of mortgage, to submit to the mortgagee all documents and information needed for the exercise of this right, and to immediately ensure, upon request of the mortgagee, the latter’s physical access to the object of the mortgage.

(3) The inspection of the mortgaged asset should not disrupt the use or exploitation of the object of mortgage, nor should it violate the rights of the mortgagor or of the third party, who is temporarily holding the mortgaged asset.

Article 25. Consequences of diminution in value of the object of mortgage

(1) If the mortgagor breaches the duty to conserve, maintain, repair or insure the object of mortgage and fails to remedy such violations within a reasonable period of time following a notification from the mortgagee, and in cases of severe violations – without any prior notification, the mortgagee is entitled to undertake steps to secure the integrity of the object of mortgage on behalf and at the expense of the mortgagor. The mortgagor shall repay the costs incurred by the mortgagee, unless the mortgagor proves that these costs were not justified or reasonable.

(2) If the mortgaged immovable asset is destroyed, deteriorated or its value decreased considerably, due to the acts or omissions of the mortgagor, the mortgagee is entitled to demand from the debtor early performance of the secured obligation.

Article 26. Transfer of rights over the object of mortgage

(1) The mortgagor has no right to dispose of the mortgage property without the written consent of the mortgagee.

(2) Any legal deed by which the mortgaged immovable asset is alienated without the written consent of the mortgagee shall be void.

(3) Conveyance into use of the mortgaged immovable asset without the written consent of the mortgagee, any legal deed breaching such prohibition shall be void.

(4) An exception to the rule set out in paragraph 1 is the case when the mortgaged property is bequeathed. Any provisions limiting the right of the mortgagor to bequeath the mortgaged immovable asset shall be void.

(5) If the mortgaged immovable asset is transferred, including through its alienation to third parties, the mortgage subsists, except for cases when the mortgagee explicitly consents in writing to its termination.
Chapter V
ASSIGNMENT AND PLEDGE OF MORTGAGE RIGHTS

Article 27. Assignment and pledge of mortgage rights
(1) The mortgagee may assign or pledge present and future mortgage rights to third parties without mortgagor's consent, on condition that this right is provided in the mortgage contract.
(2) The assignment of the mortgage rights is done together and simultaneously with the assignment of the mortgage-secured claim.
(3) If the mortgage-secured claim is assigned, the new mortgagee acquires the mortgage right in the amount held by the assignor. Where a part of the mortgage-secured claim is assigned, the new mortgagee acquires mortgage rights proportionate to the part of the claim, except for the case when the mortgage contract provides otherwise.
(4) The assignment or pledge of mortgage rights contract shall be concluded in the form used for conclusion of the contract establishing the mortgage-secured obligation.
(5) There is no need to register the assignment of the mortgage rights in the Register of immovable property, unless the parties agree otherwise.
(6) Pledge of mortgage rights will be registered in the Register of pledge of movable property as per applicable legislation.

Chapter VI
TERMINATION OF MORTGAGE

Article 28. Grounds for mortgage termination
The mortgage shall terminate in the case of:
   a. Fulfilment of the mortgage-secured obligation;
   b. Complete loss of mortgaged asset;
   c. Expropriation of mortgaged asset;
   d. Exclusion of mortgaged asset from civil circuit;
   e. Written consent of mortgagee to remove the mortgage entry;
   f. Expiry of the term of the mortgage contract;
   g. Cancellation of contract by the parties;
   h. Sale during forced execution of the mortgage rights;
   i. Other situations provided by legislation.

Article 29. Registration of mortgage termination
(1) Upon termination of mortgage, the entry on mortgage shall be deleted from the Register of immovable property in accordance with procedure required by effective legislation.
(2) Application for deletion of the mortgage from the Register of immovable property shall be submitted by the mortgagee or by any other interested person, with the written consent of the mortgagee, to the territorial cadastre office where the respective mortgage had been registered. The cases when the mortgagee's consent is not required for the deletion of the mortgage entry shall be established by effective legislation.

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Chapter VII
EXECUTION OF MORTGAGE RIGHT

Article 30. General provisions on execution of mortgage right
(1) The mortgagee may execute its mortgage right where the debtor failed to fulfil or inadequately fulfilled the secured obligation or any part thereof, as well as in other cases provided by the mortgage contract.
(2) The execution of the mortgage right may take place through the following methods:
   a. sale of mortgaged immovable asset by the mortgagee or any person authorised by the mortgagee to third parties;
   b. sale of the mortgaged immovable asset under the supervision of a court of law;
   c. acquisition of the mortgaged immovable by the mortgagee;
   d. taking of the mortgaged immovable asset in mortgagee's possession, with a view to its administration.
(3) The mortgagee who holds mortgage rights over several immovable assets, mortgaged to secure the same obligation, may execute its mortgage rights over such assets simultaneously or consecutively, at its discretion.
(4) Rights of the tenants, of which the mortgagee had been notified in compliance with par. (6) of Article 10 of this law, as well as those which arose in accordance with the mortgage contract shall remain unaffected in case of start of enforcement of mortgage right by the mortgagee.

Article 31. Measures to initiate execution of mortgage right
(1) In order to initiate the execution of its mortgage right, the mortgagee is bound to:
   a. send to the mortgagor and, as the case may be, to the debtor a notification showing the intention to execute the mortgage right under the mortgage contract;
   b. register with the Register of immovable property an information letter concerning the execution of the mortgage right.
(2) The notification shall be sent to the domicile or the seat of the mortgagor, and of the debtor, as the case may be, by registered letter with confirmation of receipt. Notification shall be considered delivered upon expiration of seven business days as of the date of sending.
(3) The notification and the information letter shall contain:
   a. grounds for enforcing the mortgage right;
   b. amount of mortgage-secured claim and obligation;
   c. the intention of the mortgagee to exercise its mortgage rights;
   d. indication of the term upon whose expiry, the mortgagee will execute their mortgage right, and which shall not be less than 20 calendar days as of the registration of the information letter;
   e. determination of the object of the mortgage;
   f. mortgagee's request to transfer the mortgaged immovable asset into its possession;
   g. amount of arrears, including interest, fees and any other costs and expenses to be paid in order for the enforcement procedure to be discontinued, or actions to be taken by the debtor to cure his failure to adequately perform his obligations; and
   h. mortgagee's signature.
(4) The Registrar shall verify the proof of receipt of the notification or of the expiry of the presumed term for notification receipt, set forth in paragraph (2) of the present article.
(5) During the term indicated in the notification and the information letter, the debtor has the right to pay the outstanding amount or cure in any other way their failure to adequately perform his duties, as provided for in the notification and information letter.
If the debtor has not undertaken the measures specified in the notification and information letter within the above-mentioned term or the longer term indicated in the notification and information letter, the mortgagee has the right to continue the enforcement procedure.

Article 32. Voluntary execution of mortgage right
Voluntary execution of mortgage right takes place at any time as the parties agreed based on an agreement on voluntary execution of the mortgage right entered into by the mortgagee and the mortgagor in written authenticated form.

Article 33. Involuntary execution of mortgage rights
(1) Involuntary execution of mortgage rights by the mortgagee is performed on the basis of a court ordinance, pronounced in conformity with the ordinance procedure (simplified procedure), or as the case may be, further to a court judgement in compliance with the rules set forth in the Code of civil procedure.
(2) The mortgagor may submit grounded objections against the ordinance, based on which the judge may cancel the ordinance. The following shall be deemed grounded objections, specific to mortgages:
   a. the formalities to initiate mortgage right enforcement have not been observed by the mortgagee;
   b. the notification and/or the information letter contain untrue data;
   c. voluntary execution by the debtor of the obligation within the time and on conditions set forth in the notification and information letter.
(3) Upon submittal of objections the mortgagor shall provide justification documents to support the objections.
(4) Where the ordinance or, as the case may be, the court judgement on forced transfer of the mortgaged asset is later cancelled, the mortgagee shall be bound to return the mortgaged asset or to reimburse the price at which the asset has been sold and compensate for the damages caused.

Article 34. Sale of mortgaged asset
(1) The mortgagee may sell the mortgaged asset at any time agreed with the mortgagor in the voluntary execution agreement or upon entry into force of the court ordinance or judgement issued in this regard, as the case may be.
(2) The mortgagee shall conduct the sale of the property without undue delay, on commercially reasonable terms and price taking into account the interests of the mortgagor.
(3) The mortgagee may choose the method by which the mortgaged asset is to be sold: tender offer, direct negotiations or public auction carried out in accordance with effective legislation.
(4) The mortgagee is entitled to ask a court of law that the mortgaged asset is sold under the supervision of the latter.
(5) The sale under court supervision shall be mandatory in cases set forth by paragraph (6) of the Article 79 of the Law on pledge and other cases stipulated by the present law.
(6) The mortgagee shall be entitled to transfer title of ownership over the mortgaged asset on behalf of the mortgagor based on the following documents:
   a. In case of voluntary execution – the agreement on voluntary execution of the mortgage right authenticated by a notary;
   b. In case of involuntary execution – court ordinance or court judgement, which remained final.
(7) The mortgagee is under the obligation to inform the buyer of his capacity of a mortgagee at the time of asset sale.
(8) The proceeds from the sale of the mortgaged asset shall be distributed as provided by the Civil code.
Article 35. Acquisition by the mortgagee of the mortgaged immovable
(1) Mortgagee may acquire the mortgaged immovable within the framework of the voluntary execution by entering into agreement on voluntary execution which shall have the form and substance of the sale-purchase contract.
(2) The mortgaged immovable may be acquired by the mortgagee within the framework of involuntary execution only by sale under court supervision.

Article 36. Eviction of tenants upon enforcement of mortgage right
(1) The mortgagor and any other persons residing in the mortgaged immovable asset shall be bound to vacate the mortgaged asset upon taking effect of the voluntary execution agreement between the mortgagor and the mortgagee, unless another term is agreed by the parties, or, accordingly, in the case of forced execution - upon the moment when the court ordinance or court judgment remained final, as the case may be.
(2) If the persons specified in par.(1) of this Article refuse to vacate the mortgaged asset or have not vacated it upon the expiry of the 15-days term as of the date established in par.(1) of this Article, then the bailiff shall commence the eviction.
(3) Occupants residing in the mortgaged asset based on a valid lease contract shall not be required to vacate the asset until the expiration of the lease term. They shall act as tenants in relation to the person that obtains ownership over the mortgaged asset as a result of the execution of the mortgage right.

Article 37. Expenses related to execution of mortgage right
The costs of sending the notification, registering the information letter, as well as other expenses associated with the execution of the mortgage right shall be borne by the mortgagor, unless provided otherwise in the court ordinance or judgement, as the case may be, or unless otherwise agreed by the mortgagee and the mortgagor.

Chapter VIII
PROTECTION OF DEBTORS’ RIGHTS IN CONSUMER TRANSACTIONS

Article 38. Mortgage advertising
The advertising of the terms of the mortgage, securing the reimbursement of a money amount, shall be made in conformity with the effective provisions that regulate advertising, and particularly
a) the advertising information must be true and must not be misleading for the debtor;
b) where the advertisement contains information on the interest rate applicable to the mortgage-secured obligation, such information must include the total costs relative to the obligation;

Article 39. Mortgagee’s duty to inform the debtor
(1) Before establishing contractual mortgage relations between the parties, the mortgagee must inform the debtor about all terms and conditions of the mortgage contract, as well as of the contract under which the secured obligation arises.
(2) The costs relating to the conclusion of the legal act secured by a mortgage, as well as to the conclusion of the mortgage contract, to be borne by the debtor, the amount, manner of calculation of such costs, as well as the cases in which the costs may be reimbursed must be presented to and given to the debtor in writing in plain and unequivocal language, understanding of which does not require special knowledge.
(3) Before entering the transaction, the mortgagee must bring to debtor’s notice the information about the possibility of early performance of the mortgage-secured obligation, costs or penalties relating to it.
(4) The information submitted to the debtor prior to conclusion of the mortgage contract must expressly specify the risk of loss of the right of ownership over the mortgaged immovable asset, in case of non-performance or improper performance under the secured obligation, and that there may be unilateral changes in the rate of interest, as the case may be.

(5) The debtor may require the mortgagee to provide the statement accounting for the payments made and the balance of the mortgage secured obligation. The mortgagee will issue to the debtor the annual statement; for those issued additionally the mortgagee may require payment of a fee.

(6) The mortgagee shall notify the debtor in writing about the change in the interest rate at least 30 days before the change takes effect and shall attach information on the according change of due amounts.

(7) The mortgagee shall provide the applicant with a copy of the appraisal report to the borrower before the mortgage contract is signed.

Article 40. Prohibition on additional services
The granting of a money amount, reimbursement of which is secured by a mortgage, as well as the mortgage establishment may not be conditioned on the procurement by the debtor of additional services, rendered by the mortgagee or by persons affiliated to the latter.

Article 41. Confidentiality of debtor’s data
(1) Personal data about the debtor, which became known to the mortgagee, is confidential and may not be disclosed by the mortgagee, except for cases when
   a) the person concerned explicitly agrees to such disclosure;
   b) such data became public in a legitimate way;
   c) its disclosure occurred in the cases and under the conditions set by law; or
   d) disclosure of such data is requested by the competent state body.

(2) The mortgagee shall not demand from the debtor to submit data regarding political and religious beliefs, membership in trade unions, public and religious associations, parties and other social and political organizations save for cases provided by law.

(3) Persons culpable of breaching the rules on the protection of debtor’s personal data shall be liable as set out by effective legislation.

Article 42. Exclusion or limitation of liability
It is prohibited to exclude or limit the liability of the mortgagee in mortgage contracts with consumers, save for cases expressly provided by effective legislation.

Article 43. Application of provisions on standard contractual clauses and consumer protection
Upon concluding the mortgage contract, which secures the return of money, the mortgagee shall observe provisions of the legislation on standard contractual clauses and, as the case may be, consumer protection rules.

Article 44. Means of legal protection
Any person whose right has been violated or who has a legitimate interest may challenge in court the validity of the mortgage or taking recourse upon the mortgaged asset.

Article 45. Provisions applicable to the mortgagor
The provisions of this chapter shall apply to the same extent to the mortgage guarantor and applicant, despite the fact that the mortgage agreement has not been concluded with them.
Chapter IX
SPECIFICS OF MORTGAGING CERTAIN TYPES OF OBJECTS

Article 46. Land plots
(1) Upon establishing a mortgage over a land plot, the mortgage shall also cover the present and future capital buildings, including unfinished constructions located on the land plot, which are owned by the mortgagor, unless the mortgage contract provides otherwise.
(2) In the event of execution of mortgage right over a land plot encumbered by a lease or a rent, of which the mortgagee had been informed in compliance with the provisions of this law or which the mortgagee agreed to, the purchaser of the mortgaged land plot (new owner) shall be bound to comply with the terms of the lease or rent, as the case may be, in relations with the lessee.

Article 47. Buildings
(1) Where a building is mortgaged, the mortgage also extends over the land plot, on which the building is located, if the land is owned by the mortgagor.
(2) If the said land plot is owned by a third party and has been given to the mortgagor into use, after execution of the mortgage rights, the new owner of the building acquires the rights and obligations of the mortgagor, in accordance with the legal deed establishing the terms of use.

Article 48. Mortgage over future and unfinished constructions
(1) The owner of a future or unfinished construction, divided or not into isolated premises, can establish a mortgage over such property if the future or unfinished construction is registered in the Register of immovable property in accordance with the legislation on cadastre of immovable assets.
(2) In case when the future or unfinished immovable construction is registered as a condominium, the mortgage over the entire building is not created. The mortgage shall be created over the isolated premises in such building.
(3) The owner of the isolated premises in a future or unfinished construction may establish a mortgage over such isolated premises, if the isolated premises is registered in the Register of immovable property in accordance with the legislation on cadastre of immovable assets.
(4) In case when the isolated premises in a future or unfinished construction is mortgaged, upon the transfer of ownership title over such premise, the parties to the mortgage agreement may agree on deletion of a mortgage or amendments to the mortgage contract, the new owner being entitled to establish a new mortgage over such premises.

Chapter X
SUPERVISION OF MORTGAGE ACTIVITY

Article 49. Supervision of mortgage activity
(1) Mortgage activity by commercial entities shall be regulated and supervised by the appropriate state authority.
(2) The activity of commercial entities that participate in mortgage relations as mortgagees, except for banks, shall be supervised and regulated by the competent authority, in the manner and according to the procedure established by the legislation of the Republic of Moldova. Activity of banks in mortgage lending is supervised and regulated by the National Bank of Moldova.
(3) The state authority empowered with supervision of mortgage activity shall develop and approve rules on mortgage lending.
Chapter XI
FINAL PROVISIONS

Article 50.
The Government shall bring its normative acts in conformity with this law within three months.

Vice-president of the Parliament Maria POSTOICO

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