Ukraine

Civil Code
(adopted on 16 January 2003 and entered into force on 1 January 2004)

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6 - Pledge

Article 572 - Notion of Pledge

1. Against the pledge a creditor (pledgee) shall have the right, in the event a debtor (pledgor) does not fulfill an obligation secured by the pledge, to get satisfaction at the expense of the property in pledge in the priority order as against other creditors of this debtor, unless otherwise is specified by the law (the lien).

Article 573 - Securing of Future Claim

1. A claim that may arise in future shall be secured by the pledge

Article 574 - Grounds for Pledge Arising

1. A pledge arises based on the agreement, the law or the court decision.
2. Provisions of this Code regarding the pledge arisen based on the agreement shall be applied to the pledge arisen based on the law, unless otherwise is specified by the law.

Article 575 - Specific Types of Pledge

1. Hypothecation (mortgage) shall be pledge of the real estate that remains in possession of a pledgor or a third person.
2. Pawn shall be pledge of movable property being transferred into possession of a pledgee or by his order – into possession of a third person.
3. The law shall establish regulations on land mortgage and other specific types of pledge.

Article 576 - Subject of Pledge

1. Any property (a thing, securities, property rights) that can be alienated by the pledgor and can be seized may be a subject of pledge.
2. A subject of pledge may be the property that the pledgor will acquire after the pledge arising (future crop, animal yield etc).
3. The pledgee’s rights (lien) in a thing being a subject of pledge shall extend to its attributes, unless otherwise is established in the agreement. The lien shall extend to fruits, products or income generated from the use of the pledged property in cases specified in the agreement.
4. National, cultural or historical values, which are the objects of the state property right and are subject to state registration or registered at the National Cultural Heritage Register, shall not be a subject of pledge.
5. Claims of personal nature as well as other claims prohibited for pledge by the law, cannot be a subject of pledge.
6. A subject of pledge shall remain with the pledgor, unless otherwise is established by the law.
7. Pledge of separate types of property may be prohibited or restricted by the law.

Article 577 - Notary Witness of Pledge Agreement and Registration of Pledge
1. A pledge agreement shall be subject to notary witnessing if real estate is a subject of pledge (mortgage) as well as in other cases specified by the law.
2. Pledge of real estate shall be subject to state registration in cases and per the procedure established by the law.
3. Pledge of movable property may be registered based on application of a pledgor or a pledgee by making entry to the State Registry of Movable Pledge.

Article 578 - Pledge of Property under Joint Ownership
1. Property under joint ownership may be transferred on pledge only upon consent of all co-owners.

Article 5792 - Replacement of Subject of Pledge
1. Subject of pledge may be replaced only upon consent of a pledgee, unless otherwise is established in the agreement or the law.

Article 580 - Risk of Accidental Destruction or Damage of Subject of Pledge
1. Risk of accidental destruction or accidental damage of the subject of pledge shall be born by the owner of the pledged property, unless otherwise is specified in the agreement or the law.
2. In case of accidental destruction or accidental damage of the subject of pledge the pledgor shall be obliged upon the pledgee’s request to provide an equivalent thing, or if possible, to restore the destroyed or damaged subject of pledge.

Article 581 - Insurance of Subject of Pledge
1. If the subject of the pledge is not liable to compulsory insurance, it may be insured by the consent of the parties for the agreed amount of money.

In case of insured accident, the right to claim from the insurer shall become the subject of pledge.

Article 582 - Valuation of the Subject of Pledge
1. The subject of pledge shall be valued in the cases specified in the agreement or the law.
2. The pledgor together with the pledgee shall value the subject of pledge according to current prices at the moment of the lien arising, unless other procedure for the subject of pledge valuation is specified in the agreement or the law.

Article 583 - Parties to Pledge Agreement
1. A debtor or a third person (property bail) may be the pledgor.
2. An owner of a thing or a person enjoying the property right or a person to whom an owner or a person enjoying the property right transferred a thing or the property right with the pledge right may be the pledgor.

3. The right for somebody other’s thing shall be pledged upon the consent of the owner of this thing, if alienation of this right requires, according to the agreement or the law, the owner’s consent.

Article 584 - Contents of Pledge Agreement
1. A pledge agreement shall specify the essence, size and term of fulfillment of the obligation secured by pledge, shall describe the subject of pledge and shall indicate other conditions agreed upon by the parties to the agreement.

2. Description of the subject of pledge in the pledge agreement may be given in a general form (indication of a type of pledged property etc.).

Article 585 - Moment of the Lien Arising
1. A lien shall arise since the moment of a pledge agreement conclusion, and in the cases when an agreement is subject to notarization, since the moment of its notary witnessing.

2. If pursuant to a pledge agreement or the law, the subject of pledge must stay in the pledgee’s possession, the lien shall arise since the moment of the subject of pledge transfer to him. If the subject of pledge is transferred prior to a pledge agreement conclusion, the lien shall arise since the moment of the agreement conclusion.

Article 586 - Use and Disposition of the Subject of Pledge
1. A pledgor shall have the right to use the subject of pledge in line with its designation including getting fruits and income, unless otherwise is established in the agreement and provided this results from the pledge essence.

2. A pledgor shall have the right to alienate the subject of pledge, to transfer it for use to other person or to dispose it otherwise only upon the consent of a pledgee, unless otherwise is established in the agreement.

3. A pledgor shall have the right to bequeath the pledged property. A transaction restricting the right of the pledgor to bequeath the pledged property shall be null and void.

4. A pledgee shall have the right to use the subject of pledge transferred to him only in the cases provided by the agreement. The agreement may assign the pledgee with an obligation to generate fruits and income from the subject of pledge.

Article 587 - Obligations of the Subject of Pledge Owner
1. A person that owns the subject of pledge shall be obliged, unless otherwise is specified in the agreement:

   1) to take measures necessary to preserve the subject of pledge;

   2) to duly maintain the subject of pledge;
3) to immediately notify the other party to a pledge agreement on the arisen threat of destruction or damage of the subject of pledge.

2. A pledgor that owns the subject of pledge in case of loss, spoilage, damage or destruction of the pledged property through his fault shall be obliged to replace or renovate this property, unless otherwise is established in the agreement.

3. A pledgee that owns the subject of pledge in case of loss, spoilage, damage or destruction of the pledged property through his fault shall be obliged to reimburse to the pledgor for the incurred losses.

**Article 588 - Subsequent Pledge**

1. Subsequent pledge of the already pledged property shall be allowed, unless otherwise is established by the previous pledge agreement or the law.

2. Subsequent pledge of the property shall not terminate the lien of a previous pledgee.

3. The first pledgee shall have the priority right over subsequent pledgees to satisfy his claims at the expense of the pledged property. Claims of subsequent pledgees shall be met in the order of the lien priority, except for the case specified in part four of this Article.

4. In case the subject of pledge is movable property, a pledgee of the registered pledge shall have the priority right to satisfy his claims at the expense of the pledged property over the pledgees of unregistered pledges or the pledges registered later. The pledgees that registered one and the same pledge in the same day shall have equal rights to satisfy the claims at the expense of the pledged property.

5. A pledgor of unregistered pledge shall be obliged to provide each of the pledgees with the information on all previous pledges of property in the scope specified in Article 584 of this Code. A pledgor shall be obliged to compensate for the losses of any of the pledgees due to non-fulfilment of this obligation.

**Article 589 - Legal Consequences of Non-Fulfilment of the Obligation Secured by Pledge**

1. In the event of non-fulfilment of the obligation secured by pledge, a pledgee shall acquire the right to seize the subject of pledge.

2. A pledgee shall have the right to satisfy in full at the expense of the subject of pledge his claim established at the moment of actual satisfaction including the interest, penalty, compensation of losses incurred by violation of the obligation, necessary expenses for maintenance of the pledged property and the expenses related to raising a claim, unless otherwise is established by the agreement.

**Article 590 - Seizure of the Subject of Pledge**

1. The subject of pledge shall be seized upon the court decision, unless otherwise is specified in the agreement or the law.
2. A pledgee shall acquire the right to seize the subject of pledge in the case when an obligation is not fulfilled in the specified period (term), unless otherwise is established by the agreement or the law.

3. In case of liquidation of a legal person – a pledgor, a pledgee shall acquire the right to seize the pledged property irrespective of the maturity of the obligation secured by the pledge.

4. In case of partial fulfillment by a debtor of his obligation secured by the pledge, the right to seize the subject of pledge shall be preserved in the initial scope.

5. In case the subject of pledge comprises two or more objects (two or more rights), all these objects (rights) or any of them can be seized at a pledgee’s option.

If a pledgee seizes one object (one right) but his claim is not satisfied in full, he shall preserve the lien in other objects (rights) being the subject of pledge.

Article 591 - Sale of the Subject of Pledge

1. The subject of pledge being seized shall be sold at public auction, unless otherwise is established by the agreement or the law. Procedure for sale of the subject of pledge at public auction shall be established by the law.

2. An initial price of the subject of pledge for its sale at public auction shall be specified per the procedure established by the agreement or the law. If the seizure is realized by the court decision, the court in its decision may specify the initial price of the subject of pledge.

3. If the public auction announced a failure, the subject of pledge may be transferred into the pledgee’s ownership at an initial price, upon the consent of a pledgee and a pledgor, unless otherwise is specified by the agreement or the law.

4. If the sum obtained from the sale of the subject of pledge does not cover the pledgee’s claims, he shall have the right to receive the missing sum from the other property of the debtor in the priority order pursuant to Article 112 of this Code, unless otherwise is established by the agreement or the law.

Article 592 - Early Fulfilment of the Obligation Secured by Pledge

1. A pledgee shall have the right to claim early fulfilment of the obligation secured by pledge in case of:

   1) transfer by the pledgor of the subject of pledge to another person without the pledgee’s consent, if such consent was necessary;

   2) violation of the rules on substitution of the subject of pledge by the pledgor;

   3) loss of the subject of pledge in the circumstances beyond the pledgee’s control, if the pledgor did not replace or renovate the subject of pledge.

2. A pledgee shall have the right to claim early fulfilment of the obligation secured by pledge and in case his claim is not satisfied – to seize the subject of pledge:
1) in case the pledgor violates the rules on subsequent pledge;
2) in case the pledgor violates the rules on disposal of the subject of pledge;
3) in other cases specified by the agreement.

**Article 593 - Termination of the Lien**

1. The lien shall be terminated in case of:
   1) termination of the obligation secured by pledge;
   2) loss of the subject of pledge if a pledgor did not replace the subject of pledge;
   3) sale of the subject of pledge;
   4) acquisition of the ownership right in the subject of pledge by a pledgee.

   The lien shall be also terminated in other cases established by the law.

2. In the event of the lien termination in the real estate, a corresponding entry is made to the State Registry.

3. In case of the lien termination as a result of fulfilment of the obligation secured by pledge, a pledgee that possessed the pledged property shall be obliged to immediately return it to a pledgor.