

## Registering a Mortgage to secure a non guarantee debt in Dominican Republic

The Dominican Republic's legislation contains provisions that allow creditors without guarantee, to register the so called *provisional judicial mortgage* on the real estate properties of their debtors. This mechanism becomes very useful in order to ensure the recovering of debts in Dominican Republic. To use this legal tool, it is necessary to meet some requirements (I) and accomplish the corresponding procedure (II).

### I. Registration Requirements

The creditor who wishes to register a provisional mortgage on the properties of his debtor has to obtain a judicial authorization that is granted without informing the debtor. It is awarded based on the article 48 of the civil procedure code. It is up to the judge to authorize it or not and the following requirements shall be accomplished:

- A. The creditor must have a justified credit;
- B. The debtor must be the owner of the property;
- C. The creditor has to prove that the credit is in danger, and that it is urgent to recover the debt;
- D. The authorization can be related to one or more properties.

### II. Procedure

Once the authorization is obtained, the creditor must proceed as follows:

- A. Deposit an instance in the Real State Register Office, requiring the inscription of the mortgage;
- B. Inform the debtor that the mortgage has been registered;
- C. Sue the debtor in recovering the credit;
- D. Once a final judgement has been rendered, the creditor can proceed to seizure the property.

The judicial registration of mortgage for promoting the early recovery of values in Dominican Republic, is a frequently used mechanism in the judicial practice of legal commercial collections and has become most useful in the lasts months as a result of the reform of the real state legislation, with which the rights of ownership over the real estate properties can be investigated more effectively.

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**White Paper**

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