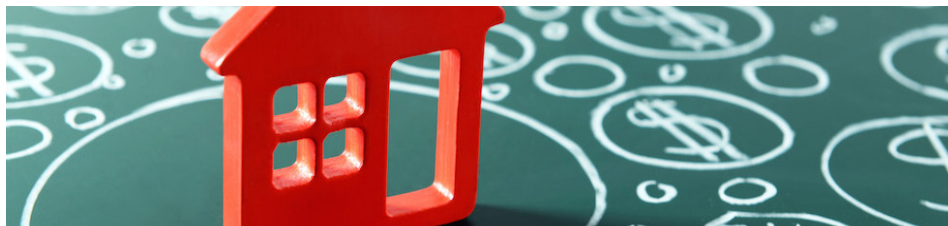


24 May 2019



Ministry Issues Mortgage Regulations

- Regulations now issued after Land Act was amended imposing restrictions on mortgages
- Regulations provide that all moneys obtained from a mortgage from a bank or financial institution (both 'local' and 'foreign') must be invested in Tanzania
- Investing moneys outside Tanzania obtained from a mortgage constitutes a breach of conditions of Right of Occupancy
- Money obtained from a mortgaged 'undeveloped' or 'underdeveloped' land must be invested to develop that mortgaged land
- Underdeveloped and underdeveloped land now defined in detail
- Statutory forms for reporting introduced
- Submission of valuation report during registration of mortgage is now compulsory

In a bid to ensure proper regulation, monitoring and supervision of the monies obtained from a mortgage, the Ministry of Lands, Housing and Human Settlements Development has issued detailed procedures for administration and enforcement of section 120 of the Land Act Cap. 113 R.E 2002 vide the Land (Procedure for Mortgage of Land) Regulations 2019 (Mortgage Regulations) which came into force on 26 April 2019.

Regulation 4 of the Mortgage Regulations expands on the definition of undeveloped and underdeveloped land from that provided in the Land Act (as amended). It considers land to be undeveloped if it is vacant, without unexhausted improvement in, on, under or over such land; or without any change of substantial nature in the use of the land.

However, where land is used for agricultural, pastoral or mixed agricultural and pastoral purposes, the land is considered to be undeveloped unless such land has not been used for cultivation or pasturage or mixed cultivation and pasturage, as the case may be, at any time for a period of twenty four months.

On top of that, land is also considered to be underdeveloped even if it is fenced, hedged, leveled, ploughed, cleared, a cleared or partially cleared site of some former developments, or inadequately developed contrary to the conditions of Right of Occupancy.

Furthermore, the Mortgage Regulations have introduced Form No. 54H which is prescribed in the schedule specifically for declaring that the mortgage money shall be invested in Tanzania.

The Mortgage Regulations makes a submission of valuation report during the registration of mortgage as a mandatory requirement. The said report is to be prepared by a Registered Valuer, approved by the Chief Valuer and to be submitted within twelve months from the date on which it is prepared.

For further information on legal updates please contact:

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LEGAL UPDATE

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24 May 2019

Apart from the above, the mortgagor is now required to submit a report to the Commissioner within six months after the registration of a mortgage through Form No. 551. This report shall state the manner in which the money secured from the mortgage has been utilized to develop the mortgaged land in addition to photographs depicting the current status of the development.

The Mortgage Regulations also make it an offence for any person who knowingly makes a false declaration or submits a report containing false information. The punishment for such an offence is a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both.

To read the Land (Procedure for Mortgage of Land) Regulations, 2019 [click here](#)

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