

On Mortgage of Immovable Property

Unofficial translation

The Law of the Republic of Kazakhstan dated 23 December, 1995.

Unofficial translation

Footnote. The form of act is amended; title is in the wording of the Law of the Republic of Kazakhstan dated 23.12.2005 № 107 (the order of enforcement see Article 2 of the Law № 107).

Footnote. Throughout the text Edict the words "place of residence (location)" is substituted by the words " place of residence (location)" in the relevant case of the Law of the Republic of Kazakhstan dated 03.06.2003 № 427;

Throughout the text the word "Edict" is substitute by the word "the Law" of the Law of the Republic of Kazakhstan dated 23.12.2005 № 107 (the order of enforcement see Article 2 of the Law № 107).

Chapter 1. General provisions

Article 1. Basic concepts used in this Law

The following basic concepts shall be used in this Law:

1) real estate (real estate) - land plots, as well as buildings, structures and other property firmly connected with the land, that shall be, objects, the movement of which is impossible without disproportionate damage to their purpose;

2) mortgage of real estate (mortgage) - a type of pledge in which the pledged real estate or a share in it shall remain in the possession and use of the pledgor or a third party;

3) mortgage loan - a loan, including a bank loan or a syndicated loan secured by a mortgage of real estate;

4) mortgage housing loan - a mortgage bank loan provided for the purpose of building a home or buying and (or) repairing it;

5) mortgage organization - a legal entity whose exclusive activity shall be the activity provided for by this Law;

6) mortgage agreement - agreement of the parties on the establishment of a mortgage to secure the main obligation;

7) sale of a mortgage - sale of property that shall be the subject of a mortgage;

8) pledger - a person whose real estate or share in it shall be the subject of a mortgage;

9) pledgee - a person whose interests under the main obligation shall be secured by a mortgage;

10) principal obligation - a debt or other obligation fully or partially secured by a mortgage;

11) the authorized body for architecture, urban planning and construction shall be the central state body exercising leadership in the field of state management of architectural, town planning and construction activities;

12) proxy - a person who carries out the sale of a mortgage out of court;

13) authorized body - a state body that shall carry out state regulation, control and supervision of the financial market and financial organizations.

Footnote. Article 1 – in the wording of the Law of the Republic of Kazakhstan dated 19.06.2024 № 97-VIII (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

Article 2. Scope of application of this Law

1. Relations, arising upon application of the mortgage of property as the method of securing obligations shall be regulated by this Law. General rules on pledge, contained in the Civil Code of the Republic of Kazakhstan, shall be applied to the mortgage of property, if other rules are not established by this Law. Regulations of this Law shall be applied in case of contravention between this Law and other legislative acts in a part of regulation of mortgage of property.

2. Rules of this Law on mortgage, arising under contract, shall be applied correspondingly to the mortgage, arising on the ground of legislative act.

3. Peculiarities of mortgage of land plots and rights in it may be provided by the land legislation.

4. Requirements for mortgage organizations, linked with receiving of the licenses by them for carrying out of banking operations, provided by this Law, as well as by regulation of its activity, shall be established by the regulatory legal acts of authorized body.

5. For mortgage organizations and other legal entities operating within the framework of the special regulatory regime introduced in accordance with the Law of the Republic of Kazakhstan “On state regulation, control and supervision of financial market and financial organizations”, the norms of this Law and regulatory legal acts of the authorized body, the National Bank of the Republic of Kazakhstan adopted in accordance with this Law, shall be distributed within the limits provided for by the conditions of the special regulatory regime.

Footnote. Article 2 as amended by the Law of the Republic of Kazakhstan dated 23.12.2005 № 107 (the order of enforcement see Article 2 of the Law № 107); № 168-VI as of 02.07.2018 (shall be enforced ten calendar days after its first official publication); dated 03.07.2019 № 262-VI (shall be enforced from 01.01.2020).

Article 3. Limits of securing of basic obligation by mortgage

1. The mortgage shall secure the payment of principal of loan under contract of mortgage loan or other obligation, provided by the mortgage contract in whole or in a part to the pledge holder.

The mortgage, established in security of the contract of mortgage loan, shall secure the payment of remuneration (interest) owing to a creditor for using of credit by them, unless otherwise provided by the contract.

2. The mortgage shall secure requirements of pledge holder in that volume, which they shall have to the date of its satisfaction, unless otherwise provided in the contract, shall include:

1) compensation of losses, caused by non-fulfilment, arrear or other improper performance of basic obligations;

2) penalty (fine, late fee) for non-fulfilment, delay in performance or other improper performance of basic obligations;

3) penalty for unlawful using of other people's money, provided by the basic obligation or legislative acts.

3. The mortgage shall provide as well:

1) claim costs reimbursements and other expenses, caused by the foreclosure to the mortgaged property;

2) compensation of expenses on realization of the mortgage.

4. If the fixed overall amount of claims of pledge holder, provided by mortgage is specified in the mortgage contract, obligation of the debtor in the part exceeding this amount shall not be provided by mortgage, with the exception of the requirements provided by paragraph 3 of this Article and with Article 4 of this law.

Footnote. Article 3 as amended by the Laws of the Republic of Kazakhstan dated 11.07.1997 № 154 Z970154; dated 03.06.2003 № 427.

Article 4. Hypothecation of additional expenses of pledge holder

In the cases, when a pledge holder shall be obliged to incur expenses on its maintaining and protection or on extinguishment of debt of pledger on related with this immovable property of tax, fees or community charges in accordance with the conditions of mortgage contract or necessarily to secure maintaining of mortgaged property, compensation of these necessary expenses shall be secured to the pledge holder at the expense of mortgaged property.

Article 5. The mortgage of immovable property, being in common property

1. The mortgage on immovable property, being in joint property, may be placed in existence of written consent of all holders on it.

2. Holder of a share in common property may pledge its share in the right to the common property without consent of the other holders.

Chapter 1-1. The mortgage organization

Footnote. The Law is supplemented by chapter 1-1 by the Law of the Republic of Kazakhstan dated 23.12.2005 № 107 (the order of enforcement see Article 2 of the Law № 107).

Article 5-1. Establishing a mortgage organization

1. The mortgage organization shall be established in the form of joint-stock company in accordance with the legislative acts of the Republic of Kazakhstan.

2. The name of a mortgage organization shall contain the words “mortgage organization”.

A legal entity, not registered in established by the legislation procedure of the Republic of Kazakhstan as a mortgage organization, may not be referred as a mortgage organization.

The requirements provided for by parts one and two of this clause shall not apply to the Unified Housing Construction Operator.

3. A mortgage organization shall be a commercial organization, carrying out the separate banking operations, on the basis of a license issued by the authorized body.

Footnote. Article 5-1 as amended by the Law of the Republic of Kazakhstan dated 09.06.2020 № 341-VI (shall come into effect from 01.07.2020).

Article 5-2. An activity of mortgage organization

1. The main activity of a mortgage organization shall be the provision of a mortgage bank loan on the basis of a license of an authorized body to carry out bank borrowing operations.

2. A mortgage organization shall have a right to carry out the following additional operations:

1) trust operations: management of claims on mortgage bank loans in the interests and on behalf of the principal;

2) factoring transaction:

acquisition of rights of demand for payment from the customer of goods (works, services) with risk attachment of non-payment;

3) forfeiting transactions (forfeiting): settlement of obligations of the customer of goods (works, services) by discount without recourse;

4) leasing activity.

3. The procedure of issuance, suspension and termination of a license of mortgage organization shall be established by the regulatory legal acts of the authorized body.

4. A mortgage organization shall have a right to carry out the following types of activity:

1) Investment activity in recognition of limitations, provided by paragraph 6 of this Article;

2) realization of special literature on issues of mortgage lending on all types of information media;

3) realization of own holding;

4) realization of mortgaged property according to the procedure, established by the legislation of the Republic of Kazakhstan;

5) provision of consulting services on issues, linked with its activity;

6) issue and placement of securities, as well as obligations;

7) realization of application software, using for automatization of activity of mortgage organizations;

8) organization and conducting training in order of raising of qualification of specialists in the field of mortgage lending.

4-1. The Unified Housing Construction Operator, along with the activities and operations provided for in paragraphs 1, 2, 4 and 5 of this article, shall have the right to:

1) provide loans to an authorized organization determined in accordance with the Law of the Republic of Kazakhstan "On Participatory Interest in Housing Construction" and legal entities engaged in construction within the framework of state housing construction programs;

2) carry out activities provided for by the legislation of the Republic of Kazakhstan on participatory interest in housing construction, on architectural, urban planning and construction activities, other regulatory legal acts of the Republic of Kazakhstan and the charter.

5. A mortgage organization shall have a right to use the sources of financing, not prohibited by the legislation of the Republic of Kazakhstan for providing of its activity.

6. Acquisition of a stake in the authorized capitals or stocks of legal entities shall be prohibited to the mortgage organization, except of the cases of acquisition of a stake in the authorized capitals or stocks of:

1) financial organizations;

2) legal entities, not being financial organizations, whose stocks are included in the list of the stock exchange, carrying out activity in the territory of the Republic of Kazakhstan, on the highest category of listing;

3) legal entities, carrying out automatization of activity of mortgage organizations.

The requirement provided for by the first part of this clause shall not apply to the Unified Housing Construction Operator.

Footnote. Article 5-2 as amended by the Laws of the Republic of Kazakhstan dated 12.01.2007 № 222 (shall be enforced upon expiry of six months from the date of its official publication); dated 09.06.2020 № 341-VI (shall come into effect from 01.07.2020); dated 19.06.2024 №97-VIII (shall enter into force upon expiry of ten calendar days after its first official publication).

Article 5-3. Competence of the authorized body and the National Bank of the Republic of Kazakhstan

Footnote. The title of Article 5-3 as amended by the Law of the Republic of Kazakhstan dated 03.07.2019 № 262-VI (shall be enforced from 01.01.2020).

1. An authorized body in relation to the mortgage organizations shall exercise the following powers:

1) shall issue a license to the mortgage organizations for carrying out banking operations, provided by this Law;

2) shall maintain a register of mortgage organizations;

3) shall establish prudential regulations and other compulsory to observation of regulations and limits by the mortgage organizations;

4) shall issue mandatory regulatory legal acts by the mortgage organizations;

5) Is excluded by the Law of the Republic of Kazakhstan dated 03.07.2019 № 262-VI (shall be enforced from 01.01.2020);

6) independently or with the assistance of other organizations shall carry out inspection of activity of mortgage organizations;

6-1) shall monitor mortgage organizations' compliance with the legislation of the Republic of Kazakhstan on counteracting the legalization (laundering) of proceeds from crime and financing of terrorism;

7) other functions, provided by this Law, other Laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

1-1. The National Bank of the Republic of Kazakhstan, in agreement with the authorized body, determines the list, reporting forms, terms and procedure for its submission by mortgage organizations to the National Bank of the Republic of Kazakhstan.

1-2. The authorized body concerning the Unified Housing Construction Operator shall exercise the powers provided for in paragraph 1 of this article, in terms of the activities and operations provided for in paragraphs 1, 2, 4 and subparagraph 1) of paragraph 4-1 of Article 5-2 of this Law.

2. Procedure of application of enforcement of actions and sanctions shall be established by the regulatory legal acts of the authorized body.

3. If a mortgage organization fails to comply with the requirements of the authorized body for adjusting the data in its financial and (or) other statements, specified in a written order, the authorized body calculates prudential standards and other compulsory norms and limits on the basis of the statements it has adjusted on its own.

Footnote. Article 5-3 as amended by the Laws of the Republic of Kazakhstan dated 19.02.2007 № 230 (the order of enforcement see Article 2) dated 10.02.2011 № 406-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 05.07.2011 No 452-IV (shall be enforced from 13.10.2011); № 206-V as of 10.06.2014 (shall

be enforced ten calendar days after its first official publication); № 422-V as of 24.11.2015 (shall be enforced from 01.01.2016); dated 03.07.2019 № 262-VI (shall be enforced from 01.01.2020); dated 09.06.2020 № 341-VI (shall come into effect from 01.07.2020).

Article 5-4. Supervisory response measures and sanctions

In case of violations of the requirements of the legislation of the Republic of Kazakhstan by a mortgage organization, detection of drawbacks and (or) risks in its activities, the authorized body applies supervisory response measures and sanctions to the mortgage organization provided for by the Law of the Republic of Kazakhstan “On Banks and Banking Activities in the Republic of Kazakhstan”.

Footnote. Article 5-4 as amended by Law of the Republic of Kazakhstan № 168-VI as of 02.07.2018 (shall be enforced from 01.01.2019)

Article 5-5. State support for improving housing conditions

State support for improving housing conditions is carried out through:

subsidizing part of the remuneration rate on mortgage housing loans through the subjects of the quasi-public sector;

subsidizing the rate of remuneration on loans issued by second-tier banks for private entrepreneurship for housing construction, through the subjects of the quasi-public sector.

Footnote. Chapter 1 is supplemented with Article 5-5 in accordance with Law of the Republic of Kazakhstan № 34-VI as of 28.12.2016 (shall be enforced from 01.01.2017); as amended by the Law of the Republic of Kazakhstan dated 22.11.2024 № 138-VIII (shall be enforced ten calendar days after the day of its first official publication).

Article 5-6. Competence of the central executive body in the field of housing relations and housing and communal services

The central executive body in the field of housing relations and housing and communal services in order to implement state support measures to improve housing conditions:

1) subsidizes part of the rate of remuneration on mortgage housing loans through the subjects of the quasi-public sector;

2) subsidizes the rate of remuneration on loans issued by second-tier banks for private entrepreneurship for housing construction, through the subjects of the quasi-public sector;

3) develops and approves, in agreement with the central authorized body for budget planning, the rules for subsidizing part of the remuneration rate on mortgage housing through the subjects of the quasi-public sector and the methodology for calculating the cost of the services of the subject of the quasi-public sector;

4) develops and approves, in agreement with the central authorized body for budget planning, the rules for subsidizing the rate of remuneration on loans issued by second-tier banks for private entrepreneurship for the subjects of the quasi-public sector and the methodology for calculating the cost of the services of the subject of the quasi-public sector;

5) exercises other powers stipulated by other laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Footnote. Chapter 1 is supplemented with Article 5-6 in accordance with Law of the Republic of Kazakhstan № 34-VI as of 28.12.2016 (shall be enforced from 01.01.2017); as amended by the Law of the Republic of Kazakhstan dated 22.11.2024 № 138-VIII (shall be enforced ten calendar days after the day of its first official publication).

Chapter 2. Mortgage contract Article 6. The form of the mortgage contract

1. A mortgage contract shall be concluded in written form, signed by the pledger and the pledge holder, as well as by the debtor, if the pledger is not a debtor (collateral guarantor).

2. A mortgage contract shall be the ground for mortgage registry. The right of mortgage shall arise from the date of its registration.

3. Notarial certification of mortgage contract shall be carried out at will of the parties.

4. Rights of pledge holder may be confirmed (registered) by the issuance of mortgage certificate.

Footnote. Article 6 as amended by the Law of the Republic of Kazakhstan dated 25.03.2011 № 421-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 7. The content of a mortgage contract

1. In the mortgage contract shall be specified:

1) the name (name) and place of residence (location) of the pledger and pledge holder, as well as a debtor, if a pledger (collateral guarantor) is not be a debtor on the basic obligation;

2) the subject of the basic obligation, its amount and performance periods;

3) inventory and location of mortgaged property;

4) description of a right, in which immovable property, being a subject of a mortgage, shall subject to the pledger (right of property, right of economic management and other);

5) other conditions, on which upon application of any party in the mortgage contract, an agreement shall be reached and not prohibited by the legislation;

4-1) the pledger's obligation to provide access to the lender and (or) appraisers to the collateral to determine its estimated value under the procedure for extrajudicial realization of the collateral;

4-2) the pledger's consent to extrajudicially satisfy the pledge holder's claims in the event of the borrower's failure to perform or improper performance of the collateralized obligation, for which he/she/it is responsible;

4-3) the pledger's obligation to inform the pledge holder on all the changes related to the pledger's identity, within fifteen working days of such changes.

1-1. It shall be prohibited to specify in the mortgage contract the right to demand early repayment of the loan amount and interest thereon, excluding the cases stipulated in the Civil Code of the Republic of Kazakhstan and this Law.

2. If the basic obligation is executed in parts, in the mortgage contract shall be specified the terms or periodicity of relevant payments and its amounts or conditions, permitting to determine these amounts.

Footnote. Article 7 as amended by the Law of the Republic of Kazakhstan dated 03 06 2003 № 427; № 168-VI as of 02.07.2018 (shall be enforced ten calendar days after its first official publication); № 100 of 31.12.2021 (shall be promulgated ten calendar days after the date of its first official publication).

Article 8. Consequences of violation of rules on alienation of mortgaged property

1. Upon alienation of immovable property, pledged on mortgage contract, with violation of rules, containing in paragraph 2 of Article 315 of Civil Code of the Republic of Kazakhstan, a pledge holder shall have a right to require:

- 1) recognition of transaction on alienation of immovable property is invalid;
- 2) early fulfilment of the basic obligation and foreclosure of mortgaged property independently from whether to whom it belong.

In last case, if it is proved, that an acquirer of mortgaged property at the moment of its acquisition knew or should know that immovable property is alienated with violation of rules, this acquirer shall bear responsibility within the cost of the mentioned immovable property for non-fulfillment of the obligation, provided by mortgage jointly and severally with a pledger.

2. Upon issuance of mortgage certificate by the pledger, alienation of mortgaged property shall not be allowed.

Upon alienation of mortgaged property, consequences, provided by paragraph 1 of this Article shall apply.

Article 9. Transfer of rights on mortgage contract

Transfer of rights on mortgage contract shall be carried out in compliance with rules on assignment of a claim, and in the case of issuance of mortgage certificate – according to the procedure, established by Article 16 of this Law, and shall subject to the state registration.

Article 9-1. Alteration of mortgage contract

Introduction of amendment of the terms and conditions of the main obligation and/or mortgage agreement shall be executed by the pledgor and the pledgee (other individuals who have signed the main obligation agreement and the mortgage agreement) an additional agreement to the main obligation agreement and to the mortgage agreement, except as

provided for in the second part of this Article, subparagraph 11) of paragraph 2 of Article 5-1, Article 34 (3) to (2), paragraphs 3 and 10 of Article 61-4, subparagraph 2) of paragraph 5 of Article 61-11 of the Law of the Republic of Kazakhstan "On Banks and Banking Activities in the Republic of Kazakhstan," the first part of subparagraph 11-2) of paragraph 2 of Article 7 of the Law of the Republic of Kazakhstan "On Microfinance Activities," the second part of paragraph 2 of Article 6-1 of the Law of the Republic of Kazakhstan "On collection activities," as well as in the second part of paragraph 3 of Article 51-3 of the Law of the Republic of Kazakhstan "On the National Bank of the Republic of Kazakhstan."

The terms of the agreement on the main obligation and the mortgage agreement may be changed unilaterally by a bank or an organization carrying out certain types of banking operations, in the case provided for by paragraph six of part two of paragraph 3 of Article 34 of the Law of the Republic of Kazakhstan "On banks and banking activities in the Republic of Kazakhstan", to implement the Program for Refinancing Mortgage Housing Loans (mortgage loans) approved by the National Bank of the Republic of Kazakhstan.

Upon existing of the mortgage certificate, alteration of the basic obligation and (or) mortgage contract, intending alteration of its content, shall be the basis for alteration and (or) attachment to the mortgage certificate according to the procedure, provided by Article 13-1 of this Law.

Footnote. Supplemented by Article 9-1 by the Law of the Republic of Kazakhstan dated 26.07.2007 № 311 (shall be enforced upon expiry of ten calendar days after its first official publication); № 49-VI as of 27.02.2017 (shall be enforced ten calendar days after its first official publication); № 168-VI as of 02.07.2018 (shall be enforced from 01.01.2019); dated 03.07.2020 № 359-VI (shall come into effect ten calendar days after the day of its first official publication); dated 19.06.2024 № 97-VIII (shall enter into force upon expiry of ten calendar days after its first official publication).

Article 10. Prevention of the pledger on rights of third parties with a view to mortgage

Upon conclusion of the mortgage contract the pledger shall be obliged to prevent the pledge holder on all rights of third parties known to him (her) with a view to mortgage to the moment of mortgage registry, even if these rights are not registered in accordance with the established procedure. Non-fulfilment of this rule shall grant the right to the pledge holder to require of early fulfillment of the basic obligation or alteration of the mortgage contract.

Footnote. Article 10 as amended by the Law of the Republic of Kazakhstan dated 25.03.2011 № 421-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 11. Annex to the mortgage contract

The documents, specifying conditions of mortgage, and/or conditions, necessary for exercising of the rights of pledge holder on this contract may be enclosed to the mortgage contract.

Chapter 3. Mortgage certificate Article 12. Definition of the mortgage certificate

1. A mortgage certificate shall be an order security, certifying the right of its legal holder:
 - 1) on getting of execution on the basic obligation;
 - 2) on foreclosure to the mortgaged property in order to getting of execution on the basic obligation;
2. A mortgage certificate shall be drawn up in one copy and transferred to the pledge holder. A mortgage certificate may be supplemented by annex, which shall be executed in the form of extra sheets, being its integral part.
3. A note on issuance of the mortgage certificate shall be made on all copies of the mortgage contract.
4. Drafting more than one mortgage certificate in relation to the same immovable property, being a subject of mortgage on mortgage housing loan, or its part shall not be allowed.

Footnote. Article 12 as amended by the Law of the Republic of Kazakhstan dated 03 06 2003 № 427; dated 26.07.2007 № 311 (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 13. The content of a mortgage certificate

1. A mortgage certificate shall contain:
 - 1) the word “A mortgage certificate”, included in the title of the document;
 - 2) the name (name) and place of residence (location) of the pledger;
 - 3) the name (name) and place of residence (location) of the pledge holder;
 - 4) the name (name) and place of residence (location) of the debtor, if a debtor is not a pledger on the basic obligation;
 - 5) the date and place of mortgage contract;
 - 6) indication of amount of the basic obligation and size of remuneration, if its subject to payment;
 - 7) indication of the date of payment of amount of the basic obligation and remuneration, if its subject to payment, and if this amount and/or remuneration is subject to payment by parts – terms or periodicity of relevant payments and amount of each of them or condition, permitting to determine it;
 - 8) inventory and location of mortgaged property;
 - 9) description of a right, in which immovable property, being a subject of a mortgage, shall subject to the pledger;

10) indication thereon if there is immovable property, being a subject of mortgage, or on the part of this property, other mortgage certificates, except of mortgage certificates on the contracts of mortgage housing loan, whether this immovable property or its part is granted by lease, encumbered or unencumbered it otherways;

11) the sign of a pledger;

12) the date of issuance of mortgage certificate;

13) an annex to the mortgage certificate.

2. Non-compliance with the requirements, established by paragraph 1 of this Article, as well as existence of expurgation and corrections shall make a mortgage certificate void.

Footnote. Article 13 as amended by the Law of the Republic of Kazakhstan dated 03.06.2003 № 427; dated 26.07.2007 No 311 (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 13-1. Introduction of amendments and (or) additions in a mortgage certificate

1. Introduction of amendments and (or) additions and a mortgage certificate shall be carried out by annex of extra sheets to the mortgage certificate after introduction of amendments and (or) additions in the basic obligation, contract of mortgage loan and (or) the mortgage contract.

The number and date of conclusion of additional agreement to the basic obligation, contract of mortgage loan and (or) the mortgage contract, as well as a subject of introduced amendments and (or) additions to the mortgage contract shall be specified in the annex to the mortgage certificate.

2. The holder of mortgage certificate shall have a right to require introduction of amendments and additions to the mortgage certificate and its state registration from a pledger.

3. Upon replacement of a pledger and (or) debtor, information (the name) and place of residence (location) of a new pledger and (or) debtor, as well as a sign of a new pledger shall be specified in the appendix to the mortgage certificate, if a debtor is not a pledger by the basic obligation.

4. Replacement of a pledge holder shall be carried out according to the procedure, provided by this Law.

Footnote. Is supplemented by Article 13-1 by the Article of the Republic of Kazakhstan dated 26.07.2007 № 311 (shall be enforced upon expiry of 10 calendar days after its first official publication).

Article 14. Condition of execution of rights and fulfilment of obligations on the mortgage certificate

1. Upon execution of its rights, provided by this Law or mortgage contract, the holder of mortgage certificate shall be obliged to present it to the pledger.

2. A pledger, discharging the basic obligation, shall have a right to require the transfer of mortgage certificate to him (her). A pledger, partly discharging the basic obligation, shall have a right to require the notes on the mortgage certificate on discharging of relevant part of obligation, which shall be carried out by the pledge holder (holder of the mortgage certificate) on written application of the pledger. Upon transfer of the mortgage certificate to the new holder, the note on partial performance shall be carried out in compulsory manner.

3. Placement of the mortgage certificate at its legal holder or deficiency of note on the mortgage certificate on partial performance of the basic obligation shall certificate, unless otherwise provided, that this obligation or correspondingly its part is not performed.

4. Placement of the mortgage certificate at a pledger shall certificate, unless otherwise provided, that obligation, provided by mortgage is performed.

5. Performance of obligation on mortgage certificate shall be carried out in accordance with the civil legislation of the Republic of Kazakhstan in recognition of peculiarities, provided by paragraph 6 of this Article.

6. Legal holder of mortgage certificate, transferring a right on mortgage certificate by execution of endorsement (endorsement), shall not bear responsibility for execution of a right on mortgage certificate in case, if until the state registration on mortgage certificate exception “without recourse” is performed by him (her).

Footnote. Article 14 as amended by the Law of the Republic of Kazakhstan dated 03.07.2003 № 427; by the Law of the Republic of Kazakhstan dated 26.07.2007 № 311 (shall be enforced upon expiry of 10 calendar days after its first official publication).

Article 15. Registration of a mortgage certificate.

Issuance of a mortgage certificate, introduction of amendments and (or) additions to the mortgage certificate and its subsequent transfer to other holders shall subject to the state registration at its location of immovable property, being a subject of a mortgage, according to the procedure, established for registration of rights for immovable property.

Footnote. Article 15 as amended by the Law of the Republic of Kazakhstan dated 26.07.2007 № 311 (shall be enforced upon expiry of 10 calendar days after its first official publication).

Article 16. Transfer of rights on a mortgage certificate

1. Transfer of rights on mortgage certificate shall be carried out by execution of endorsement on it to the advantage of another person and transfer of mortgage certificate to this person.

In the endorsement shall be exactly and fully specified the name (name) of person, to whom the rights on mortgage certificate is transferred. Blank endorsement on mortgage certificate shall be considered as invalid.

An endorsement shall be signed by specified pledge holder in the mortgage certificate, and if this endorsement is not the first of holder of mortgage certificate, named in the previous endorsement.

2. Transfer of rights on mortgage certificate to other person thereby shall signify the transfer of rights on the basic obligation to the same person.

All rights subsequent from its content, including rights of the pledge holder and rights of the creditor on the basic obligation shall reside to the legal holder of a mortgage certificate.

3. The holder of a mortgage certificate shall be considered as a legal, if his (her) rights to the mortgage certificate shall be based on succession of existing on it endorsements.

The holder of a mortgage certificate shall be considered illegal, if it is proved, that it is withdrew from the ownership of some of persons, made an endorsement, in the result of stealing or otherwise beyond this person's will, on which the holder knew or should know upon acquisition of a mortgage certificate.

4. Endorsements on a mortgage certificate, prohibiting its subsequent transfer to other persons is invalid.

Footnote. Article 16 as amended by the Law of the Republic of Kazakhstan dated 26.07.2007 № 311 (shall be enforced upon expiry of 10 calendar days after its first official publication).

Article 17. Restoration of rights on lost mortgage certificate

1. Restoration of rights on lost mortgage certificate shall be carried out by court according to the procedure, established by the procedural legislation.

2. Rights on a mortgage certificate, which is transferred to the third party by the pledge holder, may be restored, if all endorsements, made on the lost mortgage certificate shall be established.

3. Upon a decision of a court the pledger shall issue a duplicate of a mortgage certificate with a note "a duplicate" on it.

Article 18. Pledge of a mortgage certificate

1. Pledge of a mortgage certificate as a security of fulfilment of obligations of a legal holder of the mortgage certificate shall be carried out in accordance with the Civil Code of the Republic of Kazakhstan.

2. Upon non-fulfilment of obligations, provided by a pledge of a mortgage certificate, a pledge holder of a mortgage certificate shall have a right to require transfer of rights to him (her) on the basic obligation according to the procedure, on condition and with consequences, provided by Article 16 of this Law. Upon refusal to transfer these rights, a pledge holder may require transfer such rights to himself (herself) in a judicial procedure.

3. A pledge holder of a mortgage certificate, to whom the rights on mortgage certificate are transferred or transferred by court, shall have a right to foreclose on the mortgage property in accordance with the conditions of mortgage certificate and basic obligation.

Liquidation value in the result of realization of mortgage shall be applied to the pledge holder of mortgage certificate in discharge of debt, and remaining sum is transferred to the person, pledged a mortgage property, in recognition of requirements of Article 36 of this Law

4. Special hypothecary endorsement, granting a right to the pledge holder to sell a mortgage certificate upon expire of specified period in order to keep the amount of obligation off from collected funds, provided by the pledge of mortgage certificate may be made on mortgage certificate by agreement of pledge holder of mortgage certificate and pledger of mortgage certificate.

Footnote. Article 18 as amended by the Law of the Republic of Kazakhstan dated 03.06.2003 № 427.

Article 19. Termination of a mortgage certificate

1. Effect of a mortgage certificate shall be terminated:

1) upon carrying out of subsequent rights from it;

2) upon its voluntary transfer to the pledger;

3) if the requirements subsequent from it are not specified to the debtor on the basic obligation until the date of the month after ensuing of the period of performance of the basic obligation;

4) in case of loss of the mortgage property.

2. Rights of a holder of mortgage certificate on discharging of a basic obligation shall be reserved upon termination of a mortgage certificate on the grounds, provided by subparagraph 3 and 4 of paragraph 1 of this Article.

Chapter 4. Realization of a mortgage Article 20. Grounds and methods for the realization of a mortgage

1. The collateral may be foreclosed on to satisfy the pledge holder's claims in case of the debtor's failure to fulfill the mortgage secured obligation, for which he/she/it is responsible.

1-1. In order to fulfill obligations to the mortgagee under a mortgage bank loan agreement secured by the housing of an individual and not related to entrepreneurial activity, the mortgagor shall have the right to independently sell the pledged property in the manner prescribed by Article 20-1 of this Law.

2. The pledge holder has the right to satisfy his/her/its claims by:

1) realizing the mortgage in a judicial procedure;

2) realizing the mortgage extrajudicially if it is provided for by the laws of the Republic of Kazakhstan or the mortgage contract or the addendum concluded by the parties;

3) appropriating the collateral in the event that the auction is declared void in accordance with Article 32 of this Law.

Footnote. Article 20 as amended by Law of the Republic of Kazakhstan № 333-V as of 17.07.2015 (shall be enforced ten calendar days after its first official publication); as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication); № 100 of 31.12.2021 (shall enter into force ten calendar days after the date of its first official publication); dated 19.06.2024 № 97-VIII (shall enter into force upon expiry of ten calendar days after its first official publication).

Article 20-1. The realization of immovable property, which is a subject of the mortgage, by the pledger on his/her own

1. The pledger has the right, within thirty calendar days of his/her/its notification of the commencement of extrajudicial realization of immovable property, possible foreclosure on immovable property that is a subject of the mortgage, to petition the pledge holder for the realization of said property on his/her/its own.

2. Upon receipt of the mortgagor's petition referred to in paragraph 1 of this Article, the pledge holder shall be obliged to consider the said petition within a period not exceeding fifteen working days and provide an opportunity for independent sale of immovable property which is the subject of mortgage to the pledger by notifying the pledger and the debtor, if the debtor under the main obligation is not the pledger, in the manner provided for in the bank loan agreement, indicating the minimum selling price of the subject of mortgage.

If the debtor under the underlying obligation is not the pledger, in addition to other information, the notice by the pledge holder to the pledger and the debtor on presenting an opportunity to sell the immovable property subject to the mortgage itself must contain:

an indication that the immovable property being the subject of the mortgage is sold for not less than the minimum price;

date of expiry of the deadline for self-sale of the immovable property that is the subject of the mortgage;

notification of the suspension of enforcement measures and the necessity to credit the bank account of the pledge holder with the proceeds of the sale of the mortgaged immovable property.

The minimum sale price fixed by the holder of the pledge for the immovable property constituting the subject of the mortgage shall be seventy-five per cent of the appraised value shown in the appraisal report, from the date whereof no more than six months have elapsed.

The appraisal shall be performed under the requirements of the legislation of the Republic of Kazakhstan on appraisal activities.

3. Immovable property that is the subject to a mortgage shall be disposed of independently within three months from the date of notification by the pledge holder that the property can be disposed of independently.

A longer period of independent realisation of immovable property shall be fixed by negotiation between the parties to the mortgage contract.

Should the pledge holder fail to notify the pledger and the debtor, if the debtor under the underlying obligation is not the pledger, of presenting an option to independently sell the immovable property constituting the subject of the mortgage, the pledger shall be entitled, after thirty calendar days from the date of sending the holder of the pledge petition for independent sale of immovable property, to sell such immovable property within three months at a price not lower than seventy five per cent of the appraised value of the immovable property.

4. If the pledger fails to realize immovable property that is a subject of the mortgage within the time period provided for by paragraph 3 of this article, the pledge holder has the right to realize such property using the methods specified in Article 20 of this Law.

Footnote. Chapter 4 is supplemented with Article 20-1 in accordance with Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication); № 100 of 31.12.2021 (shall take effect ten calendar days after the date of its first official publication).

Article 21. Realization of a mortgage in judicial procedure

1. Realization of a mortgage in judicial procedure shall be carried out in accordance with a court decision at the suit of a pledge holder. By this a property sale, being a subject of a mortgage, shall be carried out by public sale according to the procedure, established by the procedural legislation.

2. Foreclosure of property pledged under a mortgage contract may be refused if the breach of principal obligation by the debtor is insignificant and the pledge holder's claim is thereby manifestly disproportionate to the value of the pledged property.

3. Accepting decision in execution upon property to the immovable property, pledged by a mortgage contract, the court shall determine and specify in the decision:

1) all amounts payable to the pledge holder from the value of the mortgaged property, except of the expenses of amount on the protection and realization of the immovable property, which shall be determined at the end of its realization. For the amounts, calculated in a percentage rating, shall be specified the amount on which remuneration is charged, the amount of remuneration and period for which they subject to charge;

2) being a subject of a mortgage of immovable property, from the value of which the requirements of a pledge holder are satisfied;

3) primary sale price of a mortgaged property upon its realization;

4) measures to ensure protection of immovable property before its realization, if they necessary.

4. At the request of the pledger, the court in existence of valid reasons shall have a right to adjourn realization in decision of foreclosure on a mortgaged property for the term up to one year in cases, when:

1) Is excluded by Law of the Republic of Kazakhstan № 168-VI as of 02.07.2018 (shall be enforced ten calendar days after its first official publication);

2) a subject of a mortgage shall be a plot of land from among agricultural lands.

Adjournment of realization of a mortgaged property shall not involve the rights and obligations of the parties on the basic obligation and shall not release a debtor from compensation of losses increased during adjournment of a creditor, owing a remuneration and penalty to him (her).

If a pledger within presented to him (her) by adjournment the time satisfy requirements of a pledge holder, the court on application of a pledger shall recall a judgment.

5. An adjournment of realization of a mortgage shall not be allowed in the following cases :

1) if it may involve a major deterioration of financial status of a pledge holder;

2) if in relation to the pledger or pledge holder the proceedings on recognition his (her) as a bankrupt is instituted.

Footnote. Article 21 as amended by the Law of the Republic of Kazakhstan dated 03.07.2003 № 427; № 168-VI as of 02.07.2018 (shall be enforced ten calendar days after its first official publication); № 100 of 31.12.2021 (shall be brought into force ten calendar days after the date of its first official publication).

Article 22. Termination of realization of a mortgage

A debtor and (or) a pledger, being a third party (collateral guarantor), shall have a right to terminate a foreclose to him (her) and its realization, in any time before the sale of the subject of a pledge took place, complied with the requirements of a pledge holder in that volume, which they shall have to the date of its satisfaction in accordance with conditions of a mortgage contract. An agreement limiting this right is void.

If before the date of the first publication of advertisement of tenders without legal proceedings a debtor - an individual and (or) a pledger, being a third party (collateral guarantor), shall offer to the pledge holder the buyer's candidacy, the buying price of the subject of a pledge which shall cover the requirements of a pledge holder in that volume, which they shall have to the date of its factual satisfaction of requirements of a pledge holder, this person shall have a right of preemptive buying. In this case a pledge holder shall not refuse in realization of the subject of a pledge.

Upon non-payment by person, having a right of preemptive buying of the subject of a pledge, suggested by them the buying prices, a pledge holder shall conduct the non-judicial

tenders according to the procedure, established by this Law during ten business days from the date of suggestion to the pledge holder its candidacy as a buyer.

Footnote. Article 22 is in the wording of the Law of the Republic of Kazakhstan dated 10.02.2011 № 406-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 23. Compensation of expenses, linked with realization of a mortgage

Expenses of the pledge holder, linked with realization of a mortgage, shall be compensated to him (her) from the value of the mortgaged property.

Article 24. The procedure of realization of a mortgage without legal proceedings

1. Realization of a mortgage without legal proceedings shall be carried out by holding the tenders on mortgaged property, organized by authorized body.

2. An authorized person shall be appointed by the parties to the mortgage contract or by agreement when selling the mortgaged property out of court.

If, after thirty calendar days, an authorised person has not been appointed by consent of the parties, the authorised person shall be appointed by the pledge holder.

3. Satisfaction of requirements of a pledge holder shall not be allowed without legal proceedings in the cases, when:

1) for the mortgage of immovable property the consent of other person or body is required and such consent shall not be obtained;

2) the subject of a mortgage is real estate that has significant historical, artistic or cultural value to society;

3) a subject of a mortgage shall be an immovable property, being in common property and any of its owners shall not give a written consent to the satisfaction of requirements of a pledge holder without legal proceedings;

4) Is excluded by Law of the Republic of Kazakhstan № 168-VI as of 02.07.2018 (shall be enforced ten calendar days after its first official publication);

5) a subject of a mortgage shall be a dwelling and (or) land plot with dwelling located on it, being an ensuring under contract on granting a microcredit (credit), concluded by the individual with microfinance organization (credit cooperative).

In specified cases of foreclose on the mortgaged property shall be applied only by court decision.

Footnote. Article 24 is in the wording of the Law of the Republic of Kazakhstan dated 10.02.2011 № 406-IV (shall be enforced upon expiry of ten calendar days after its first official publication); as amended by the Law of the Republic of Kazakhstan dated 26.11.2012 № 57-V (shall be enforced upon expiry of ten calendar days after its first official publication); № 168-VI as of 02.07.2018 (shall be enforced ten calendar days after its first official

publication); № 100 of 31.12.2021 (shall be enacted ten calendar days after the date of its first official publication); dated 06.04.2024 № 71-VIII (effective sixty calendar days after the date of its first official publication).

Article 25. Requirements for holding of non-judicial tenders

1. Before holding of tenders shall be performed the following procedures:

1) an authorized person shall draw up a notification of the commencement of extrajudicial realization of the immovable property, register it with the authority, which registered the mortgage, and hand it to the pledger. If it is impossible to deliver the notification by hand, it shall be sent to the pledger by registered mail to the address indicated in the mortgage contract;

2) where the pledger fails to independently sell the immovable property being the subject of mortgage, or where the pledger fails to sell the immovable property being the subject of mortgage within the period specified in paragraph 3 of Article 20-1 hereof, or within the period agreed upon by the parties to the mortgage contract, but not earlier than thirty calendar days following the delivery or dispatch to the pledger in accordance with sub-paragraph 1) of this paragraph, an authorised person shall appraise the pledged property and draw up a notice of tender on the pledged property, register it with the authority where the mortgage was registered, deliver or send the appraisal report and the notice of tender on the pledged property to the pledge holder and the pledger by registered mail to the address stated in the pledge agreement, and officially publish the notice of tender under Article 28 hereof;

3) all transactions in relation of immovable property, put in trading shall be prohibited from the date of first publication of advertisement of tenders, and if the transactions are made, they shall be held invalid;

4) from the date of first publication of advertisement of tenders and until its carrying out shall pass not less than ten days.

1-1. The pledge holder shall pay for the appraisal of the pledged property.

A pledger who disagrees with the appraisal report on pledged property may apply to the Expert Council of the Chamber of Appraisers for an opinion on the appraisal under the Law of the Republic of Kazakhstan “On Valuation Activity in the Republic of Kazakhstan” or appeal against it in court following the procedure stipulated by the laws of the Republic of Kazakhstan.

A negative opinion of the Expert Council of the Chamber of Appraisers or the declaration of unreliability of an appraisal report by a court shall constitute grounds for the authorised person to appoint a new appraisal. Should the Expert Council of the Chamber of Appraisers issue a negative opinion, the fee paid by the customer for the examination of the appraisal report shall be refunded by the appraiser who prepared the appraisal report or the legal person with whom the appraiser has an employment contract.

If the pledged property is not sold within six months out of court, the authorised person shall reappraise it.

2. Upon receipt of a notification of the commencement of extrajudicial realization of immovable property, the pledger has the right to go to court with a lawsuit against the lack of grounds for the realization of the mortgage.

A pledger shall have a right to seize the court with application on granting of deferral in realization of a mortgage on conditions, provided by paragraph 4 of Article 21 of this Law.

Application with suit (statement) to the court shall suspend duration, provided by subparagraph 2 of paragraph 1 of this Article.

Footnote. Article 25 as amended by the Laws of the Republic of Kazakhstan dated 03.06.2003 № 427; dated 10.02.2011 № 406-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 25.03.2011 № 421-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 05.07.2012 № 30-V (shall be enforced upon expiry of ten calendar days after its first official publication); № 168-VI as of 02.07.2018 (shall be enforced ten calendar days after its first official publication); № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication); № 100 of 31.12.2021 (shall come into force ten calendar days after the date of its first official publication).

Article 26. Contents of a notification of the commencement of extrajudicial realization of immovable property

Footnote. The heading of Article 26 as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

A notification of the commencement of extrajudicial realization of immovable property shall contain the following information:

- 1) name (the name) and place of residence (location) of a pledger;
 - 2) name (the name) and place of residence (location) of a pledge holder;
 - 3) summary of nonfulfillment obligations;
 - 4) total explanation of basic obligation;
 - 5) total explanation of all other collections, costs and expenses, which shall be paid by the pledger until the possible sale of mortgaged property;
 - 6) suggestion on payment in full of all debts during thirty days from the date of receipt of notification;
 - 7) prevention on possible bidding on immovable property, being a subject of the mortgage
- ;

7-1) is excluded by Law of the Republic of Kazakhstan № 168-VI as of 02.07.2018 (shall be enforced ten calendar days after its first official publication);

7-2) the condition on the right of the pledgor, which is an individual, within a period not exceeding thirty calendar days from the date of delivery or receipt of the notification by registered mail, to apply to the pledgee for the independent sale of real estate that shall be the subject of a mortgage on a mortgage bank loan secured by an individual's housing not related to entrepreneurial activity;

8) name (the name) and place of residence (location) and telephone number of authorized person.

Footnote. Article 26 as amended by the Laws of the Republic of Kazakhstan dated 03.06.2003 № 427; dated 10.02.2011 № 406-IV (shall be enforced upon expiry of ten calendar days after its first official publication); № 168-VI as of 02.07.2018 (shall be enforced ten calendar days after its first official publication); № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication); № 100 of 31.12.2021 (shall be brought into force ten calendar days after the date of its first official publication); dated 19.06.2024 № 97-VIII (shall enter into force upon expiry of ten calendar days after its first official publication).

Article 27. Content of notification on bidding

Notification on bidding shall content the following information:

- 1) name (the name) and place of residence (location) of a pledger;
- 2) name (the name) and place of residence (location) of a pledge holder;
- 3) summary of nonfulfillment obligations and total amount of all debts of a pledger before the pledge holder, subject to satisfaction a the expense of realization of a mortgage;
- 4) the name, description and specification of immovable property, being a subject of the mortgage and submit for biding;
- 5) time and place of bidding;
- 6) name (the name), place of residence (location) and telephone number of authorized person.

Article 28. Advertisement of bids and its publication

1. An authorized person shall publish an advertisement to bids on Kazakh and Russian languages in periodical print publications, distributed in the territory of region, city of republican significance, the capital city of the Republic of Kazakhstan on location of immovable property not less than ten calendar days until bidding.

2. Advertisement of bids shall contain the following information:

- 1) the name, description and specification of immovable property, submit for bidding;
- 2) exact location of immovable property;
- 3) the sum of margin of a participant in a bidding process, if it is prescribed conditions of bidding;

- 4) the procedure and date of payment of sales price;
- 5) time and place of bidding;
- 6) name (the name) and place of residence (location) of an authorized person, holding tenders, his (her) telephone number for references and payment requisites.

One copy of advertisement of bids shall be posted, if it is possible and there are no obstacles for that, on conspicuous place on immovable property, submitted to bidding, not later than ten days from the date of its holding.

Footnote. Article 28 as amended by the Laws of the Republic of Kazakhstan dated 03.06.2003 № 427; dated 10.02.2011 № 406-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 29. Organization and bidding

1. An authorized person shall organize and hold bidding.
2. Bidding shall be held in inhabited locality (city, district, rural settlement, and village) on location of property.
3. Bidding shall be announced for any day of week for the time from 9 to 18 hours.

Footnote. Article 29 as amended by the Constitutional Law of the republic of Kazakhstan dated 03.07.2013 № 121-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 30. Trading participants

Any legal entities and citizens shall have the right to participate in the trading, with the exception of:

a pledge holder and his/her employees, as well as affiliated persons, the list whereof is stipulated by Article 64 of the Law of the Republic of Kazakhstan "On Joint-Stock Companies;

a legal entity, if the second participant in the trading is an employee, founder, participant, as well as a person bound to the legal entity by an agreement whereby he/she is entitled to determine the decisions taken by the legal entity;

a natural person, if the second participant in the trading is a close relative or spouse;

an appraiser who has appraised the immovable property as well as his/her close relatives, spouse;

an authorised person.

Footnote. Article 30 - as reworded by Law of the Republic of Kazakhstan № 100 of 31.12.2021 (shall become effective ten calendar days after the date of its first official publication)).

Article 31. Margin and payment of sales price

1. An authorized person shall have a right to require contribution of margin or other evidence of his (her) possibility to pay the supposed sales price in full from the participant of bidding before starting of bidding. An authorized person shall have a right to require from participant in a bidding process, suggested an ultimate price, an immediate contribution of this sum by cash money in full, in the form of bank cheque or other payment method, established by the legislation of the Republic of Kazakhstan, or require the evidences of his (her) possibility to pay the nominated price after terminating of bidding by the methods and terms, specified in advertisement of bidding.

2. Upon refusal of vendee to execute an immediate payment or upon absence of evidences of possibility to pay in terms, provided by advertisement of bids, he (she) shall be eliminated from the list of participants in a bidding process, and they shall be considered as continued. The new bidding, which is hold according to the procedure, established by this Law, shall be announced upon impossibility of its continuation, as well as in case of non-payment of purchased property in bidding.

3. Excluded by Law № 100 of 31.12.2021 (shall become effective ten calendar days after the date of its first official publication).

4. Margins of participants shall subject to reimbursement on termination of bidding. A margin of participant, won bidding, shall be counted against sales price.

A margin of participant, who won bidding, but not paid the sales price, shall be remained in disposition of authorized body and shall be used by him (her) according to the procedure, established by Article 36 of this Law.

Footnote. Article 31 as amended by the Law of the Republic of Kazakhstan dated № 100 of 31.12.2021 (shall become effective ten calendar days after the date of its first official publication).

Article 32. Advertisement of bids is considered as failed

1. An authorized person shall announce bidding as failed in the cases, when:

- 1) less than two vendees appeared in bidding;
- 2) a person, who won bidding, did not pay the sales price in the established term.

2. Bidding shall be announced as failed on the next day after any of the circumstances mentioned in paragraph 1 of this Article were in process.

3. If auctions are declared void due to less than two buyers participating in them, the pledge holder has the right either to appropriate the collateral at its current appraised value established by a court decision or by the authorized person based on the appraisal report drawn up by the appraiser, or to demand the scheduling of new auctions.

A pledge holder shall have a right to obtain the mortgaged property by conclusion of contract of sale during ten days after announcement of bidding as failed on the ground, provided by subparagraph 2 of paragraph 1 of this Article.

In this case a mortgage contract shall be terminated.

With syndicated financing, unless otherwise established by the agreement between the co-holders, the first right to transfer the pledged property to its property shall belong to the co-holder, to whom the debtor shall have the largest amount of debt.

The co-holder who have converted the pledged property into his own property shall be obliged, within ten working days, to pay the remaining co-holders the amount of money in proportion to the size of their claims secured by the pledge, based on the estimated value established by a court decision or a trustee based on the assessment report compiled by the appraiser.

4. Announcement of new bidding shall be published in accordance with Article 28 of this Law.

Footnote. Article 32 as amended by the Law of the Republic of Kazakhstan dated 08.11.2000 № 96; dated 03.06.2003 № 427; № 134-VI as of 10.01.2018 (shall be enforced six months after its first official publication); dated 19.06.2024 № 97-VIII (shall enter into force upon expiry of ten calendar days after its first official publication).

Article 33. Right to petition in court

A pledger, as well as a debtor on basic obligation, if he (she) is not be a pledger, shall have a right to contravene the results of bidding in a court on location of immovable property in case of breaches of procedures of its holding during three months.

Filing a claim does not suspend the performance of actions arising from the results of bids

Article 33-1. Grounds for declaring extrajudicial auctions void

Grounds for declaring extrajudicial auctions void may be as follows:

- 1) the existence of circumstances provided for in paragraph 3 of Article 24 of this Law;
- 2) the absence of registration of a notification of the commencement of extrajudicial realization of immovable property and possible holding of auctions by the authority that registered the mortgage contract;
- 3) violation of the deadline from the moment of the first publication of the auction invitation until the moment of its holding, as provided for in subparagraph 4) of paragraph 1 of Article 25 of this Law;
- 4) if the delay in fulfilling the borrower's collateralized obligation was less than two months as of the time of delivery of the notification of the commencement of extrajudicial realization of immovable property;
- 5) an auction invitation has not been published in Kazakh and Russian in print periodicals distributed in a region, a city of republican significance, the capital of the Republic of Kazakhstan, at the location of the immovable property in accordance with Article 28 of this Law;

- 6) an auction invitation required by paragraph 1 of Article 28 of this Law was published in print periodicals less than ten calendar days before the auction;
- 7) lack in the notifications of information provided for in Articles 26 and 27 of this Law;
- 8) lack in the auction invitation of information provided for in paragraph 2 of Article 28 of this Law;
- 9) violation of the requirements provided for in Article 29 of this Law;
- 10) lack of authority of the authorized person to conduct auctions.

Footnote. Chapter 41 is supplemented with Article 33-1 in accordance with Law of the Republic of Kazakhstan № 168-VI as of 02.07.2018 (shall be enforced ten calendar days after its first official publication); as amended by Law of the Republic of Kazakhstan № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication).

Article 34. Transfer of immovable property to the vendee

After termination of bidding and contribution of ultimate price by vendee and all other required payment from him (her), an authorized person shall hand in a document to him (her) on acquisition of immovable property in bidding, which shall contain the following information:

- 1) ground for bidding;
- 2) place and time of its holding;
- 3) the name, description and specification of property, acquired in bidding, its location;
- 4) name (the name) and place of residence (location) of a pledger – previous property owner;
- 5) name (the name) and place of residence (location) of a vendee;
- 6) sales price, paid by vendee;
- 7) name (the name) and place of residence (location) of an authorized person, who held bidding.

A document on acquisition of immovable property in bidding shall be indorsed by signature of an authorized person.

If the authorized person is a legal entity, the signature of his/her/its representative shall be certified by the seal of this legal entity, except for private business entities; if the authorized person is an individual, his/her signature shall be notarized.

Footnote. Article 34 in accordance with Law of the Republic of Kazakhstan № 156-VI as of 24.05.2018 (shall be enforced ten calendar days after its first official publication).

Article 35. Refusal of a pledger from transfer of immovable property

A vendee shall have a right to seize the court on location of property in case of refusal of a pledger to transfer of immovable property to the vendee, acquired in bidding by him (her), including unwillingness to vacate the housing unit.

All court costs, arising in such a case shall be refunded by a pledger at the expense of funds, obtained from realization of mortgage.

Article 36. Revenue distribution from bidding

1. The trustee shall distribute the trading proceeds in the following order of precedence:
 - 1) on cover the costs and expenses of the bidding;
 - 2) on payment of basic obligation, provided by the mortgage;
 - 3) on payment of overdue liabilities, provided by secondary mortgaging and surcharges, as well as other encumbrances of immovable property in the order of precedence, established by the legislative acts;
 - 4) on refund of remaining sum to the pledger.
2. In syndicated financing, the trustee shall distribute the trading proceeds in the following order of precedence:
 - 1) to cover the costs and expenses of trading;
 - 2) to pay the main obligation secured by the mortgage to the co-holders in proportion to the size of their claims;
 - 3) to pay overdue obligations secured by secondary pledges and repayments, as well as other encumbrances on real estate in the order of priority established by the Laws of the Republic of Kazakhstan;
 - 4) to return the remaining amount to the pledger.

Footnote. Paragraph 36 as amended by the Law of the Republic of Kazakhstan dated 19.06.2024 № 97-VIII (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

Chapter 5. Termination of mortgage Article 37. Ground of termination of mortgage

1. The mortgage shall be terminated on the grounds, provided by Article 322 of Civil Code of the Republic of Kazakhstan, unless otherwise provided by this Law. State registration of termination of mortgage of immovable property in connection with execution of basic obligation, foreclosure on the mortgaged property and other grounds shall be carried out according to the procedure, established by the legislation on state registration of rights on immovable property.

2. Upon extrajudicial realization of the collateral, which fully secured the basic obligation at the time of concluding the mortgage contract, through auctions at a price lower than the amount of the basic obligation, and also when such property is transferred into the ownership of the pledge holder, the basic obligation is terminated simultaneously with the termination of the mortgage.

The rules of the first part of this paragraph shall apply to cases of sale in court of mortgaged real estate under a mortgage loan agreement, owned by an individual and fully

secured the main obligation at the time of concluding a mortgage loan agreement, if the individual debtor has no other property or income as of the date of sale of the pledged property in court, which may be levied in excess of two times the minimum wage established for the corresponding financial year by the Law on the republican budget.

3. In the event that the pledger realizes on his/her/its own the immovable property that fully secured the basic obligation at the time of concluding the mortgage contract, in the manner established by Article 20-1 of this Law, at the price not lower than the one agreed upon with the pledge holder, the basic obligation is terminated simultaneously with the termination of the mortgage.

Footnote. Article 37 as amended by the Law of the Republic of Kazakhstan dated 03.06.2003 № 427; dated 26.07.2007 № 311 (shall be enforced upon expiry of 10 calendar days after its first official publication); № 422-V as of 24.11.2015 (shall be enforced from 01.01.2016); № 217-VI as of 21.01.2019 (shall be enforced ten calendar days after its first official publication); dated 24.05.2021 № 43-VII (shall come into effect upon the expiration of ten calendar days after the day of its first official publication); № 100 of 31.12.2021 (shall enter into force ten calendar days after the date of its first official publication); dated 19.06.2024 № 97-VIII (shall enter into force upon expiry of ten calendar days after its first official publication).

Article 38. Effect of this Law

This Law shall enter into force from 1 January, 1996.

*The President
of the Republic of Kazakhstan*