



VIETNAM



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New decree for registration of security measures

The government recently issued a decree to streamline the procedures and requirements for registration of security measures, and improve information disclosure for secured assets.

Decree No. 102/2017/ND-CP on registration of security measures was issued on September 1, 2017 and took effect on October 15, 2017 and replaced Decree No. 83/2010/ND-CP dated July 23, 2010.

Security measures subject to mandatory registration

1. Mortgage of land-use rights (LURs): This must be registered with a branch of Land Registration Office (LRO) or LRO under the provincial Department of Natural Resources and Environment (in provinces without an LRO, the LUR Registration Office will be in charge of registration);
2. Mortgage of assets attached to land where ownership of such assets is certified in the certificate of land-use rights and ownership of the residential house and other assets attached to the land: Registration must be made with the LRO or the LUR Registration Office;
3. Pledge or mortgage of an aircraft: This must be registered with the Civil Aviation Authority of Vietnam under the Ministry of Transport (MOT); and
4. Mortgage of a ship: Registration must be made with the Vietnam Maritime Authority, local Maritime Authority or local Maritime Administration under Vietnam Maritime Administration under the MOT.

Security measures for which registration can be made upon request

1. Mortgage of assets being movable assets other than those which must be registered;
2. Mortgage of assets attached to land to be formed in the future; and
3. Reservation of ownership in a case of purchase and sale of assets attached to land or of assets attached to land to be formed in the future, purchase and sale of an aircraft or ship, and purchase and sale of other movable assets with reservation of ownership.

Registration for these security assets will be made with the Centre for Registration of Assets and Transactions under the National Registration Agency for Secured Transactions under the Ministry of Justice.

Registration file and procedures

Decree 102 simplifies administrative procedures and improves transparency and publicity in registration of security measures.

The registration file for a secured transaction can be lodged by one of the following methods: online registration system, lodged directly (in person), sent by post or sent by email if the applicant has been issued with a code to use the security database.

Upon receipt of the proper application dossier, the registration authority must resolve a registration file on the same day as the application file is received. If a file is received after 3pm, registration shall be completed on the following working day. And if it is necessary to prolong the time-limit for processing a file, then such extended time-limit must not exceed three working days.

Effective time of registration for security measures

The regulations on the effective time of registration for security measures under Decree 102 are different from Decree 83 as follows:

1. For registration of security measures over LURs, assets attached to land, an aircraft or a ship, the effective time of registration for the security measures is the time when the registration authority enters the registration contents into the register.
2. In the case of registration for a change due to an addition of security assets without signing any new security contract, or of a secured obligation that at the time of signing, the parties did not agree on security for obligations arising in the future, then the effective time of registration for the security measures applicable to the additional asset or additional [secured] obligation is the time when the registration authority enters the changed registration items into the register or enters them into the database.
3. The effective time of registration for security measures shall not be changed in the case of transition from registration of the mortgage of an asset right arising from a contract for the purchase and sale of residential housing to registration of a mortgage of such house to be formed in the future; or transition from registration of a mortgage of an asset right arising from a contract for sale and purchase of a house to registration of a mortgage of the house as such house to be formed in the future has already been formed in accordance with the Law on Residential Housing. The effective time of registration for security measures in those cases is the time of registration of the mortgage of the asset right arising from the contract for sale and purchase of the house.