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A Review Of

The New Guideline And Requirements For The Perfection Of Legal Mortgage In Anambra State



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A REVIEW OF THE NEW GUIDELINE AND REQUIREMENTS FOR THE PERFECTION OF LEGAL MORTGAGE IN ANAMBRA STATE

Introduction:

In Nigeria, all lands within a state are technically vested in the Governor of that state, who holds them in trust for the people. This is established by the Land Use Act of 1978. While individuals and organizations can obtain rights to use and develop land through various forms of occupancy, such as a statutory right of occupancy (granted by the state) or a customary right of occupancy (granted by the local government), they do not own the land outright. Thus, any transfer or mortgage of an individual's existing right of occupancy over a land requires the **consent** of the Governor of the state where the land is situate.

In practice, the Governors of the various states in Nigeria usually delegate their powers under the Land Use Act to their Commissioner for Lands who is an appointee of the Governor, appointed to oversee the Ministry of Lands.

Background Facts:

The Anambra State government recently reviewed the applicable fee for registration of title documents on state / non-state land which affected the fees and requirements for the perfection of legal mortgage in the state. This review became effective from 1st April, 2025. The new fees represent a significant increase in the earlier fees paid for the perfection of legal mortgage in Anambra State.

This article seeks to x-ray the old fees vis-a-vis the new fees and their likely impact on perfection of legal mortgages and credit facilities for business operations in the State, especially in the light of the fact that the major asset used as collateral for business credit facilities in Nigeria is land. "Land" here includes both the bare land and any physical structure (e.g buildings) fixed on it.



The Old Fee Requirement for Perfection of Legal Mortgage in Anambra State

- i. Consent fee: (1% of the Facility)
- ii. Computer: ₦20,000.00
- iii. Registration: ₦10,000.00
- iv. Inspection: ₦10,000.00
- v. Stamp Duty: (2% of the facility)
- vi. Arrears of Ground Rent.
- vii. The Applicant's Tax Clearance Certificate or ₦250,000.00 for payment of tax. Where the applicant is a company, then two directors must present their tax clearance certificates or pay ₦250,000.00 each which will be used to pay for their tax for the current year.

The New Fee Requirement for Perfection of Legal Mortgage in Anambra State

- i. Consent: 7% of the value of the facility. This was formally 1% of the value of the facility.
- ii. Recertification fee: ₦25, 000 (this was recently introduced as part of the fees).
- iii. Registration fee: ₦10, 000
- iv. Computer: ₦20, 000
- v. Stamp duty: 2% of the value of the facility
- vi. Arrears of ground rate (if any). This is assessed per Meter square (m^2). In state land, it is ₦15/ m^2 for residential, ₦30/ m^2 for commercial and ₦5/ m^2 for agriculture and the same rate applies to non-state lands.
- vii. The Applicant's Tax Clearance Certificate or ₦250,000.00 for payment of tax. Where the applicant is a company, then two directors must present their tax clearance certificates or pay ₦250,000.00 each which will be used to pay for their tax for the current year.

The old fee of ₦10, 000 for inspection has been removed.

Documentary Requirements for Perfection of Legal Mortgage in Anambra State

- i. 2 passport photographs of each of the 2 directors.
- ii. 2. Tax clearance of 2 directors
- iii. 3. Certificate of Incorporation of the mortgagor company
- iv. 4. Form CAC 7



- v. 5. Memo and Articles of Association of the mortgagor company
- vi. 6. 4 copies of the executed deed of mortgage.

Impact of the new fee requirement on Access to Business Loans in the State

The increase of consent fee from 1% of the value of the facility to 7% is rather on the extreme high side. This will significantly make it difficult for micro businesses to access loans facilities. Every business considers its ability to repay a loan facility before deciding to take any such loan. Where a business stands to give up roughly 10% of the loan sum to government fees for perfection of mortgage (7% consent fee, 2% stamp duty and other fees), it will greatly impact on the actual sum obtained by the business and their ability to repay the loan, considering that the loan will come at a significant interest rate.

Conclusion:

One of the indices for assessing ease of doing business in a state or country is access to business credit facility. An arbitrary fee for the perfection of legal mortgage in a state has a significant impact on ease of doing business. The Anambra State Government should reconsider a significant reduction of the percentage for consent fee for perfection of legal mortgages.

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