

Part I. LEGAL DOCUMENTS

THE MINISTRIES

THE MINISTRY OF JUSTICE - THE MINISTRY OF NATURAL RESOURCES AND ENVIRONMENT

Joint Circular No. 20/2011/TTLT-BTP-BTNMT of November 18, 2011, guiding the registration of the mortgage of land use rights and land-attached assets

Pursuant to the June 14, 2005 Civil Code;

Pursuant to the November 26, 2003 Land Law;

Pursuant to the June 19, 2009 Law Amending and Supplementing a Number of Articles of Laws Concerning Capital Construction Investment;

Pursuant to the Government's Decree No. 83/2010/ND-CP of July 23, 2010, on registration of security transactions;

Pursuant to the Government's Decree No. 181/2004/ND-CP of October 29, 2004, on the implementation of the Land Law;

Pursuant to the Government's Decree No. 88/2009/ND-CP of October 19, 2009, on the grant of certificates of land use rights and ownership of houses and other land-attached assets;

Pursuant to the Government's Decree No. 93/2008/ND-CP of August 22, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Justice;

Pursuant to the Government's Decree No. 25/2008/ND-CP of March 4, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Natural Resources and Environment; and Decrees No. 19/2010/ND-CP of March 5, 2010, and No. 89/2010/ND-CP of August 16, 2010, amending and supplementing Decree No. 25/2008/ND-CP;

The Ministry of Justice and the Ministry of Natural Resources and Environment uniformly guide the registration of the mortgage of land use rights and land-attached assets as follows:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

1. This Circular guides in detail the competence, dossiers and procedures for registration of the mortgage of land use rights and land-attached assets.

2. The provision of information on the mortgage of land use rights and land-attached assets complies with the provisions of Chapter III of the Government's Decree No. 83/2010/ND-CP of July 23, 2010, on registration of security transactions (below referred to as Decree No. 83/2010/ND-CP), the Ministry of Natural Resources and Environment's Circular

No. 09/2007/TT-BTNMT of August 2, 2007, guiding the making, revision and management of cadastral dossiers (below referred to as Circular No. 09/2007/TT-BTNMT), Circular No. 17/2009/TT-BTNMT of October 21, 2009, on certificates of land use rights and ownership of houses and other land-attached assets (below referred to as Circular No. 17/2009/TT-BTNMT) and Joint Circular No. 69/2011/TTLT-BTC-BTP of May 18, 2011, of the Ministry of Finance and the Ministry of Justice, guiding the collection, remittance, management and use of the fee for registration of security transactions, charge for provision of information on security transactions and charge for regular use of customer services (below referred to as Joint Circular No. 69/2011/TTLT-BTC-BTP).

Article 2. Subjects of application

This Circular applies to:

1. Domestic individuals, households and organizations, overseas Vietnamese, and foreign individuals and organizations registering the mortgage of land use rights and land-attached assets in accordance with law;

2. Agencies competent to register the mortgage of land use rights and land-attached assets;

3. Other organizations and individuals involved in the registration of land use rights and land-attached assets.

Article 3. Cases of registration of mortgage of land use rights and land-attached assets with

land use right registration offices

1. Registration of mortgage of land use rights.

2. Registration of mortgage of land-attached assets, including houses, other construction works, perennial tree gardens and planted production forests.

3. Registration of mortgage of land-attached assets to be formed in future.

4. Registration of mortgage of land use rights together with land-attached assets.

5. Registration of mortgage of land use rights together with land-attached assets to be formed in future.

6. Registration of change and deregistration of mortgage in the cases specified in Clauses 1, 2, 3, 4 and 5 of this Article.

7. Registration of written notification on the disposal of mortgaged assets in the case of registered mortgage.

Article 4. Responsibilities of agencies, organizations and individuals in the registration of mortgage of land use rights and land-attached assets

1. Registration requesters shall fill in by themselves a registration dossier and take responsibility before law for the completeness, lawfulness, truthfulness and accuracy of information declared in the registration dossier.

2. Land use right registration offices shall assure that the mortgage registration content be consistent with information in cadastral dossiers.

3. The registration of mortgage of land use rights and land-attached assets shall be reported as follows:

a/ Land use right registration offices shall send biannual and annual reports on the registration of mortgage of land use rights and land-attached assets to provincial-level Justice Departments for summarization and reporting to the People's Committees of provinces or centrally run cities (provincial-level People's Committees).

Biannual and annual reports shall be sent to provincial-level Justice Departments within 7 days from the end of the reporting period stated at Point c of this Clause;

b/ Provincial-level People's Committees shall send biannual and annual reports on the registration of mortgage of land use rights and land-attached assets in their localities to the Ministry of Justice (with the National Office for Registration of Security Transactions as the focal point) for summarization and reporting to the Government.

Biannual and annual reports shall be sent to the Ministry of Justice within 25 days from the end of the reporting period stated at Point c of this Clause;

c/ For biannual reports, the period of statistics is from October 1 of the previous year through March 31 of the current year. For

annual reports, the period of statistics is from October 1 of the previous year through September 30 of the current year.

4. In addition to the tasks and powers defined in Clause 5, Article 46 of Decree No. 83/2010/ND-CP, provincial-level Justice Departments shall assume the prime responsibility for, and coordinate with the Departments of Natural Resources and Environment, Finance, Home Affairs and other related departments and sectors in:

a/ Irregularly or biannually or annually examining local land use right registration offices in the registration and provision of information on mortgage of land use rights and land-attached assets;

b/ Reviewing and submitting to provincial-level People's Committees for promulgation a Regulation on coordinated state management of the registration of security transactions in localities; the process of registration and provision of information on mortgage of land use rights and land-attached assets according to the provisions of this Circular on dossiers and procedures and other relevant regulations;

c/ Guiding and directing the land use right registration offices, notarization organizations and other agencies, organizations and individuals in strictly and fully complying with the law and regulations on registration of security transactions;

d/ Advising provincial-level People's Committees on arranging sufficient staffs and funds for the state management of registration

of security transactions in localities; equipping adequate physical facilities and encouraging application of information technology to the registration and provision of information on the mortgage of land use rights and land-attached assets;

e/ Applying measures to encourage organizations and individuals to actively search information on security transactions and share information on the legal status of security assets in localities.

Article 5. Competence to register mortgage of land use rights and land-attached assets

1. Land use right registration offices under provincial-level Departments of Natural Resources and Environment (below referred to as provincial-level land use right registration offices) of localities in which land and land-attached assets are located shall register the mortgage of land use rights and land-attached assets for domestic organizations and overseas Vietnamese carrying out investment projects in Vietnam and foreign individuals and organizations.

2. Land use right registration offices under the Sections of Natural Resources and Environment of districts, towns or provincial cities in which land and land-attached assets are located or the Sections of Natural Resources and Environment of districts, towns or provincial cities in which land and land-attached assets are located and no land use right registration office has been established yet

(below collectively referred to as district-level land use right registration offices) shall register the mortgage of land use rights and land-attached assets for domestic households and individuals and overseas Vietnamese allowed to buy houses associated with land use rights in Vietnam.

Article 6. Time limits for settling registration dossiers

1. In case a valid registration dossier comprises a certificate granted by a competent state agency in different periods, being the land use right certificate granted under the 1987 Land Law, 1993 Land Law or 2003 Land Law; house ownership and land use right certificate or house ownership certificate granted under the 2005 Housing Law; house ownership and land use right certificate granted under the Government's Decree No. 60/CP of July 5, 1994, on ownership of houses and land use rights in urban areas; house ownership certificate or construction work ownership right certificate granted under the Government's Decree No. 95/2005/ND-CP of July 15, 2005, on the grant of house or construction work ownership certificates; certificate of land use rights and ownership of houses and other land-attached assets granted under the 2009 Law Amending and Supplementing a Number of Articles of Laws Concerning Capital Construction Investment, and the Government's Decree No. 88/2009/ND-CP of October 19, 2009, on the grant of certificates of land use rights and ownership of houses and other land-attached assets, land use

right registration offices shall settle registration dossiers immediately on the date of receipt thereof; for dossiers received after 15:00 hrs, they shall complete the registration immediately on the subsequent working day.

2. In case a valid registration dossier comprises any of the papers mentioned in Clauses 1, 2 and 5, Article 50 of the 2003 Land Law, the mortgage registration shall be completed within 3 working days from the date of receipt thereof.

3. In case a registration dossier is submitted to a commune-level People's Committee or the one-stop-shop section for receipt of dossiers and return of settlement results at the People's Committee of a district, town or provincial city (below referred to as district-level People's Committee), the time limit for settlement of the registration dossier is counted from the date the land use right registration office receives the dossier forwarded from the commune-level People's Committee or the one-stop-shop section for receipt of dossiers and return of settlement results.

4. The time limit for settlement of registration dossiers mentioned in Clauses 1 and 2 of this Article does not include the time for carrying out procedures for granting certificates of land use rights and ownership of houses and other land-attached assets, or the time for certifying ownership of land-attached assets on the certificates of land use rights and ownership of houses and other land-attached assets.

Article 7. Written request for registration

1. A written request for registration must fully bear the signatures and seals (if any) of the institutional and individual parties to the mortgage contract or their authorized persons, excluding the following cases:

a/ If the contract on mortgage of land use rights, contract on mortgage of house, contract on mortgage of other land-attached assets or contract on mortgage of land-attached assets to be formed in future has been lawfully notarized or certified, only the signature and seal of one party to the contract or authorized person are required;

b/ The request for registration of change of the registered content on the mortgagee, correction of erroneous information on the mortgagee, the request for registration of written notification on the disposal of mortgaged assets, request for mortgage deregistration already bears the signature and seal of the mortgagee;

c/ The request for mortgage deregistration already bears the signature and seal of the mortgagor and the mortgagee's written agreement on the mortgage deregistration.

2. The written request for registration only needs the signature of the head of the asset management and liquidation team in case the head of the asset management and liquidation team of an enterprise falling into bankruptcy is the registration requester.

Article 8. Fee for registration of mortgage of land use rights and land-attached assets

The rates and the collection, remittance, management and use of the fee for registration of mortgage of land use rights and land-attached assets comply with Joint Circular No. 69/2011/TTLT-BTC-BTP.

Article 9. Registration forms

Organizations and individuals, when registering the mortgage of land use rights and land-attached assets, shall use forms issued together with this Circular.

Chapter II

REGISTRATION OF MORTGAGE OF LAND USE RIGHTS AND LAND- ATTACHED ASSETS

Section 1

REGISTRATION DOSSIERS

Article 10. Dossiers of registration of mortgage of land use rights, mortgage of land use rights together with land-attached assets or mortgage of land use rights together with land-attached assets to be formed in future

The requester shall submit a set of the mortgage registration dossier comprising:

1. The written request for mortgage registration (1 original);
2. The lawfully notarized or certified contract on mortgage of land use rights, contract on mortgage of land use rights together with land-attached assets, contract on mortgage of land use rights together with land-attached asset

to be formed in future (1 original);

3. The certificate of land use rights and ownership of houses and other land-attached assets (1 original);

4. The construction license, for land-attached assets required by law to have construction license, or the approved investment project, in case of mortgage of land-attached assets to be formed in future, except the case such asset mortgage contract has been notarized or certified or such asset is not subject to construction licensing or making of investment project (1 certified copy);

5. The authorization document, in case the mortgage registration requester is an authorized person (a certified copy), except when the registration requester produces the original authorization document, only a copy is required for comparison.

Article 11. Dossiers of registration of mortgage of land-attached assets in case owners of land-attached assets are concurrently land users

1. In case of mortgage of land-attached assets which have been certified in the certificate of land use rights and ownership of houses and other land-attached assets, the requester shall submit a set of the mortgage registration dossier comprising:

- a/ The written request for mortgage registration (1 original);
- b/ The contract on mortgage of land-attached

assets or lawfully notarized or certified one (1 original);

c/ The certificate of land use rights and ownership of houses and other land-attached assets (1 original);

d/ The authorization document, in case the mortgage registration requester is an authorized person (a certified copy), except when the registration requester produces the original authorization document, only a copy is required for comparison.

2. In case of mortgage of land-attached assets which have been formed but not yet certified in the certificate of land use rights and ownership of houses and other land-attached assets, the registration requester shall submit a set of the mortgage registration dossier comprising:

a/ The written request for mortgage registration (1 original);

b/ The contract on mortgage of land-attached assets or lawfully notarized or certified one (1 original);

c/ The certificate of land use rights and ownership of houses and other land-attached assets (1 original);

d/ The authorization document, in case the mortgage registration requester is an authorized person (a certified copy), except when the registration requester produces the original authorization document, only a copy is required for comparison;

e/ The dossier of request for certification of the ownership of land-attached assets as

provided in the Government's Decree No. 88/2009/ND-CP of October 19, 2009, on the grant of certificates of land use rights and ownership of houses and other land-attached assets (below referred to as Decree No. 88/2009/ND-CP).

Article 12. Dossiers of registration of mortgage of land-attached assets in ~~case~~ owners of land-attached assets are not concurrently land users

1. In case of mortgage of land-attached assets created on land leased by organizations, households or individuals or on land with land use rights contributed as capital without forming new legal entity and the owners of which have been granted certificates of land use rights and ownership of houses and other land-attached assets, the registration requester shall submit a set of the mortgage registration dossier comprising:

a/ The written request for mortgage registration (1 original);

b/ The contract on mortgage of land-attached assets or lawfully notarized or certified one (1 original);

c/ The certificate of land use rights and ownership of houses and other land-attached assets granted to the owner of land-attached assets (1 original);

d/ The authorization document, in case the mortgage registration requester is an authorized person (a certified copy), except when the registration requester produces the original authorization document, only a copy is required

for comparison.

2. In case of mortgage of land-attached assets created on land leased by organizations, households or individuals or already formed on land with land use rights contributed as capital without forming new legal entity and the owners of which have not yet been granted certificates of land use rights and ownership of houses and other land-attached assets, the registration requester shall submit a set of the mortgage registration dossier comprising:

a/ The written request for mortgage registration (1 original);

b/ The contract on mortgage of land-attached assets or lawfully notarized or certified one (1 original);

c/ The authorization document, in case the mortgage registration requester is an authorized person (a certified copy), except when the registration requester produces the original authorization document, only a copy is required for comparison;

d/ The dossier of request for certification of ownership of land-attached assets as provided in Decree No. 88/2009/ND-CP.

Article 13. Dossiers of registration of mortgage of land-attached assets to be formed in future

1. In case of registration of mortgage of land-attached assets to be formed in future which are not houses bought by organizations and individuals from real estate trading enterprises under Article 61 of the Government's Decree

No. 71/2010/ND-CP of June 23, 2010, detailing and guiding the implementation of the Housing Law (below referred to as Decree No. 71/2010/ND-CP), in which land users are concurrently owners of such assets, the registration requester shall submit a set of the mortgage registration dossier comprising:

a/ The written request for mortgage registration (1 original);

b/ The contract on mortgage of land-attached assets to be formed in future or lawfully notarized or certified one (1 original);

c/ The construction license, for land-attached assets required by law to have construction license, or the approved investment project, except the case such asset mortgage contract has been notarized or certified or such asset is not subject to construction licensing or making of investment project (1 certified copy);

d/ The certificate of land use rights and ownership of houses and other land-attached assets (1 original);

e/ The authorization document, in case the mortgage registration requester is an authorized person (a certified copy), except when the registration requester produces the original authorization document, only a copy is required for comparison.

2. In case of registration of mortgage of land-attached assets to be formed in future which are not houses bought by organizations and individuals from real estate trading enterprises under Article 61 of Decree No. 71/2010/ND-CP, in which land users are not concurrently

owners of land-attached assets, the registration requester shall submit a set of the registration dossier comprising:

a/ The written request for mortgage registration (1 original);

b/ The contract on mortgage of land-attached assets to be formed in future or lawfully notarized or certified one (1 original);

c/ The lawfully notarized or certified documentary evidence of the agreement between the land user and asset owner on the use of land for creation of land-attached assets (1 original or certified copy);

d/ The construction license, for land-attached assets required by law to have construction license, or the approved investment project, except the case such asset mortgage contract has been notarized or certified or such asset is not subject to construction licensing or making of investment project (1 certified copy);

e/ The authorization document, in case the mortgage registration requester is an authorized person (a certified copy), except when the registration requester produces the original authorization document, only a copy is required for comparison.

Article 14. Dossiers of registration of change of registered mortgage contents

1. The registration requester shall submit a set of the dossier of request for registration of change of the registered mortgage content when having one of the following grounds:

a/ Withdrawal, addition or replacement of

the mortgagor or mortgagee;

b/ Change of the name(s) or type(s) of enterprise of one party or parties to the mortgage contract;

c/ Withdrawal of some of mortgaged assets being land use rights or land-attached assets;

d/ Addition of mortgaged assets being land use rights or land-attached assets;

e/ Formation of land-attached assets being assets to be formed in future.

2. A change registration dossier comprises:

a/ A written request for registration of change of the registered mortgage content (1 original);

b/ The contract on the change, in case the parties agree to add or withdraw some of mortgaged assets, to withdraw, add or replace one of the contractual parties (1 original) or a competent state agency's document in case of change of the name or type of enterprise, change of one of the contractual parties under decision of a competent state agency (1 certified copy), except when the registration requester produces the original document, only a copy is required for comparison;

c/ The certificate of land use rights and ownership of houses and other land-attached assets (1 original);

d/ The authorization document, in case the registration requester is an authorized person (a certified copy), except the case the registration requester produces the original authorization document, only a copy is required for comparison.

3. When the mortgagee in many contracts on mortgage of land use rights and land-attached assets undergoes a change of type of enterprise, the registration requester shall submit a set of the dossier of request for registration of change for all of these contracts, which comprises:

a/ The papers stated at Points a, c and d, Clause 2 of this Article;

b/ A competent state agency's document on the change of type of enterprise (a certified copy), except when the registration requester produces the original document, only a copy is required for comparison;

c/ A list of registered mortgage contracts (1 original).

4. In case of change of the name of the mortgagee not falling into the case specified in Clause 3 of this Article or change of the mortgagee in many contracts on mortgage of land use rights and land-attached assets, the registration requester shall submit a set of the dossier of request for change of name or change of mortgagee for all of these contracts, which comprises:

a/ The papers stated at Points a, c and d, Clause 2 of this Article;

b/ The contract on the change, in case the parties agree to change the mortgagee (1 original) or a competent state agency's document, in case of change of name of the mortgagee or change of the mortgagee under decision of a competent state agency (a certified copy), except when the registration requester

produces the original document, only a copy is required for comparison;

c/ A list of registered mortgage contracts (1 original).

5. In case of request for registration of change of name of the mortgagor, the registration requester shall submit a set of the dossier of request for registration of change as provided in Clause 2 of this Article and a set of the dossier of request for confirmation of the change of name in the certificate of land use rights and ownership of houses and other land-attached assets as provided in Clause 1, Article 29 of Circular No. 17/2009/TT-BTNMT.

Article 15. Dossiers of registration of written notification of the disposal of mortgaged assets in case of registered mortgage

The requester for registration of written notification of the disposal of mortgaged assets in case of registered mortgage shall submit a dossier set comprising:

1. The written request for registration of written notification of the disposal of mortgage assets (1 original);

2. The written notification of the disposal of mortgaged assets (1 original);

3. The authorization document, in case the registration requester is an authorized person (a certified copy), except when the registration requester produces the original authorization document, only a copy is required for comparison.

Article 16. Dossier of mortgage errors.
deregistration

When falling into one of mortgage deregistration cases provided by law, the registration requester shall submit a deregistration dossier set comprising:

1. A written request for mortgage deregistration (1 original);

2. The certificate of land use rights and ownership of houses and other land-attached assets (1 original);

3. The mortgagee's written consent to mortgage deregistration, in case the deregistration requester is the mortgagor (1 original);

4. The authorization document, in case the registration requester is an authorized person (a certified copy), except when the registration requester produces the original authorization document, only a copy is required for comparison.

Article 17. Dossiers of request for correction of errors in mortgage registration content due to registrants

1. In case of detecting inaccurate or incomplete registration certification content or no certification on the written request for registration, the certificate of land use rights and ownership of houses and other land-attached assets, the registration requester shall submit a set of a dossier of request for correction of errors to the land use right registration office which has carried out the registration, for correcting

2. A dossier of request for error correction comprises:

a/ A written request for error correction (1 original);

b/ The certificate of land use rights and ownership of houses and other land-attached assets, if there is an error in the mortgage registration content on this certificate (1 original);

c/ The written request bearing certification of the registration office, if there is an error in the certification of the registered content (1 original);

d/ The authorization document, in case the error correction requester is an authorized person (a certified copy), except the case the registration requester produces the original authorization document, only a copy is required for comparison.

Section 2

REGISTRATION PROCEDURES

Article 18. Submission of registration dossiers

1. The registration requester being an individual, a household or an overseas Vietnamese allowed to buy houses associated with land use rights shall submit a registration dossier to the district-level land use right registration office of the locality in which exist

the land and land-attached assets.

2. The registration requester being a domestic organization or an overseas Vietnamese carrying out an investment project in Vietnam, or a foreign individual or organization shall submit a registration dossier to the provincial-level land use right registration office of the locality in which exist the land and land-attached assets.

3. In case of mortgage of land use rights and land-attached assets in rural areas, domestic households and individuals may choose to submit the dossiers to either the district-level land use right registration office or the commune-level People's Committee of the locality in which exist the land and land-attached assets.

For dossiers submitted to commune-level People's Committees, within 3 working days, commune-level People's Committees shall forward them to district-level land use right registration offices.

Article 19. Receipt of registration dossiers

1. Upon receiving a registration request dossier, the registrant shall:

a/ Check the validity of the dossier. If the dossier is invalid, the dossier receiving officer shall refuse to receive it and guide the registration requester to comply with regulations;

b/ Write the time of receipt of the dossier (minute, hour and date) on the dossier receipt

card, then sign and write his/her name in the section for dossier-receiving officer;

c/ Make entry in the book of receipt of dossiers of registration of mortgage of land use rights and land-attached assets;

d/ Issue the dossier receipt card to the registration requester.

2. In case a registration request dossier is submitted to the one-stop-shop section for receipt of dossiers and return of settlement results of the district-level People's Committee, the dossier-receiving officer shall forward the dossier to the land use right registration office immediately on the working day for handling under Clause 1 of this Article.

Article 20. Registration of mortgage, registration of change, registration of written notification, deregistration

1. Upon receiving a registration request dossier, the land use right registration office shall check the dossier.

2. If having a ground for refusing registration under Clause 1, Article 11 of Decree No. 83/2010/ND-CP, the land use right registration office shall issue a written refusal and transfer it together with the dossier to the dossier-receiving section for returning it to and guiding the registration requester in complying with regulations.

3. If having no ground for refusing registration, within the prescribed time limit stated in Article 6 of this Circular, the land use

right registration office shall certify the registration of the mortgage, the change or the written notification or the deregistration in the written registration request, and:

a/ For the case of registration of mortgage of land use rights and land-attached assets, the land use right registration office shall write the mortgage registration content in the certificate of land use rights and ownership of houses and other land-attached assets, the cadastral book and the book for monitoring land developments according to law;

b/ For the case of registration of change of registered mortgage content, the land use right registration office shall revise the mortgage registration content in the certificate of land use rights and ownership of houses and other land-attached assets; the cadastral book and the book for monitoring land developments according to law;

c/ For the case of registration of written notification of the disposal of mortgaged assets, the land use right registration office shall write the registration of written notification of the disposal of mortgaged assets on the cadastral book and the book for monitoring land developments and notify in writing the disposal of mortgaged assets to the co-mortgagees already registered, in case land use rights and land-attached assets are used to secure many obligations;

d/ For the case of mortgage deregistration, the land use right registration office shall write off the registration in the certificate of land use

rights and ownership of houses and other land-attached assets, the cadastral book and the book for monitoring land developments according to law.

4. In case of registration of mortgage, registration of change, registration of written notification, deregistration of mortgage of land-attached assets to be formed in future the owners of which are not concurrently land users, the land use right registration office shall only write the registration content in the written request for registration, the cadastral book and the book for monitoring land developments under Clause 3 of this Article.

Article 21. Procedures for registration of mortgage of land use rights and land-attached assets in case registration dossiers contain one of the papers specified in Clauses 1, 2 and 5, Article 50 of the 2003 Land Law

1. In case households and individuals have one of the papers specified in Clauses 1, 2 and 5, Article 50 of the 2003 Land Law, they shall submit a set of the mortgage registration dossier as guided in Articles 10, 11, 12 and 13 of this Circular (the certificate is not required) and a set of the dossier of application for a certificate of land use rights and ownership of houses and other land-attached assets provided in Decree No. 88/2009/ND-CP to the land use right registration office for registering the mortgage and submitting the dossiers to a competent state agency for granting the certificate.

2. After receiving a valid dossier forwarded

from the dossier-receiving officer, the land use right registration office shall:

a/ Certify the mortgage registration in the written request for mortgage registration and return the registration result under Article 27 of this Circular;

b/ Carry out procedures for granting a certificate of land use rights and ownership of houses and other land-attached assets under law.

3. After a competent state agency grants a certificate of land use rights and ownership of houses and other land-attached assets, the land use right registration office shall write the mortgage registration content in such certificate, the cadastral book and the book for monitoring land developments, and hand over the certificate to the registration requester.

4. In case the applicant for a certificate of land use rights and ownership of houses and land-attached assets is ineligible under law, the land use right registration office shall cancel the mortgage registration and notify in writing the registration requester thereof and is not liable to pay compensation for damage under Article 49 of Decree No. 83/2010/ND-CP.

Article 22. Registration of mortgage of land-attached assets already formed but not yet certified in certificates of land use rights and ownership of houses and other land-attached assets

1. Within the time limit specified in Article 6 of this Circular, the land use right registration office shall:

a/ Certify the mortgage registration in the written request for mortgage registration and return the registration result under Article 27 of this Circular;

b/ Carry out the procedures for certifying the ownership of land-attached assets in the certificate of land use rights and ownership of houses and other land-attached assets according to law.

2. After a competent state agency certifies the ownership of land-attached assets in the certificate of land use rights and ownership of houses and other land-attached assets, the land use right registration office shall write the mortgage registration content in the certificate of land use rights and ownership of houses and other land-attached assets, the cadastral book and the book for monitoring land developments, and return such certificate to the registration requester.

3. In case the land use rights have been mortgaged and registered before the ownership of land-attached assets is certified in the certificate of land use rights and ownership of houses and other land-attached assets, the registration requester is not required to have the land use right mortgage deregistered when carrying out the certification of the ownership of assets in the granted certificate of land use rights and ownership of houses and other land-attached assets.

4. In case the mortgage of land-attached assets has been registered under Clause 1 of this Article but the requester is ineligible for

ownership certification, the land use right registration office shall cancel the mortgage registration result and notify in writing the registration requester thereof and is not liable to pay compensation for damage under Article 49 of Decree No. 83/2010/ND-CP.

Article 23. Registration of mortgage in case of addition of the value of secured obligations

1. In case of addition of the value of the secured obligation for which the contractual parties sign a new mortgage contract which is independent from the registered mortgage contract, the registration requester shall register the new mortgage and is not required to have the old mortgage deregistered.

2. In case of addition of the value of the secured obligation for which the parties sign a new mortgage contract in replacement of the registered mortgage contract, the registration requester shall have the old mortgage deregistered and register the new mortgage.

3. In case of addition of the value of the secured obligation without supplementing a mortgaged asset and the contractual parties sign an additional or a supplementary contract and a contractual annex to add or supplement the registered mortgage contract, the parties are not required to register the change with regard to such additional or supplementary document.

Article 24. Registration of change in case of change of name of mortgagor

In case the registration requester submits a dossier of registration of change of the name of the mortgagor together with a dossier of request for certification of change of the name in the granted certificate, the land use right registration office shall certify the change in the certificate of land use rights and ownership of houses and other land-attached assets and the cadastral dossier before carrying out one-stop-shop procedures for registering change of the mortgage content.

Article 25. Revision of mortgage registration content in certificates of land use rights and ownership of houses and other land-attached assets, cadastral books and books for monitoring land developments

The land use right registration office shall record and revise the mortgage registration content in the certificate of land use rights and ownership of houses and other land-attached assets, the cadastral book and the book for monitoring land developments under the guidance in the Ministry of Natural Resources and Environment's Circulars No. 09/2007/TT-BTNMT, No. 17/2009/TT-BTNMT and No. 20/2010/TT-BTNMT of October 22, 2010, additionally providing for certificates of land use rights and ownership of houses and other land-attached assets.

Article 26. Correction of errors in mortgage registration due to registrants

1. In case the registrant detects by himself/herself in a cadastral dossier an error in the

registered content due to his/her fault, he/she shall promptly report it to the head of the land use right registration office or the director of the district-level Natural Resources and Environment Section (in a locality in which no land use right registration office has been established yet) for consideration and decision to correct information in the cadastral dossier and send a written notification of the correction to the registration requester according to the address stated in the registration request.

2. In case the land use right registration office receives a written request for correction of an error detected by the registration requester, within the time limit stated in Article 6 of this Circular, the registration office shall:

a/ Correct the erroneous information in the registration content in the certificate of land use rights and ownership of houses and other land-attached assets, the cadastral book and the book for monitoring land developments, if there is an error in the certificate;

b/ Give certification in the written request for error correction;

c/ Issue a document on the correction of erroneous information in the registration content in the written request, if there is an error in the written request.

3. The correction of an error due to the fault of the registrant does not change the time of mortgage registration and the registration requester does not have to pay any fee for such correction.

Article 27. Return of registration results

1. The registration requester shall directly receive the registration result at the land use right registration office or the one-stop-shop section for receipt of dossiers and return of settlement results of the district-level People's Committee upon producing the slip of appointment for receiving the settlement result and the registration fee receipt.

In case the registration requester and the land use right registration office reach agreement on the method of returning the registration result, such agreement shall be complied with.

2. The land use right registration office shall return to the registration requester the following papers:

a/ The written request for registration bearing the certification of the land use right registration office (1 original);

b/ The certificate of land use rights and ownership of houses and other land-attached assets bearing the content of mortgage registration, registration of change, deregistration or error correction (1 original);

c/ The document on the correction of an error in the registration content (1 original), in case the registrant detects by himself/herself an error in the cadastral dossier due to his/her fault, or the document on the correction of an error in the registration content and the written request for registration bearing the certification of the registration office at fault (1 original), in case the registration requester detects an error and

makes a written request for correction.

3. In case the land use right mortgage registration is carried out concurrently with the grant of a certificate of land use rights and ownership of houses and other land-attached assets under the land law, the land use right registration office shall return the written request for registration bearing the certification of the mortgage registration office to the registration requester. After granting such certificate, the land use right registration office shall return the granted certificate to the registration requester.

4. In case the registration requester submits a dossier and receives the registration result at the commune-level People's Committee, within 3 working days after completing the registration, the land use right registration office shall send the registration result to the commune-level People's Committee for returning the result to the registration requester.

Article 28. Preservation of registration dossiers

1. A preserved dossier of mortgage registration comprises:

a/ The written request for registration bearing the certification of the registration agency (a copy);

b/ The mortgage contract (1 original);

c/ The certificate of land use rights and ownership of houses and other land-attached assets bearing the mortgage registration

certification or the document proving the agreement between the land user and asset owner on the use of land for creation of land-attached assets, in case of registration of mortgage of land-attached assets to be formed in future while the asset owner is not currently land user (1 copy);

d/ The document of authorization, in case the mortgage registration requester is an authorized person (1 copy or certified copy).

2. A preserved dossier of change registration comprises:

a/ The written request for change registration bearing the certification of the registration agency (a copy);

b/ The contract on the change (a copy) or another document evidencing the changed content (a copy or certified copy);

c/ The certificate of land use rights and ownership of houses and other land-attached assets bearing the certification of the changed content, in case the changed content has been written in the certificate (a copy);

d/ The document of authorization, in case the registration requester is an authorized person (1 copy or certified copy)

3. A preserved dossier of mortgage deregistration comprises:

a/ The written request for deregistration bearing the certification of the registration agency (a copy);

b/ The certificate of land use rights and ownership of houses and other land-attached

assets bearing the certification of mortgage deregistration,

c/ The mortgagee's written consent to mortgage deregistration in case the requester is the mortgagor (1 original);

d/ The document of authorization, in case the registration requester is an authorized person (1 copy or certified copy).

4. A preserved dossier of registration of written notification of the disposal of mortgaged assets comprises:

a/ The written request for registration of written notification bearing the certification of the registration agency (a copy);

b/ The written notification of the disposal of mortgaged assets (1 original);

c/ The document of authorization, in case the registration requester is an authorized person (1 copy or certified copy).

5. A preserved dossier of error correction comprises:

a/ The written request for error correction bearing the certification of the registration agency (a copy);

b/ The certificate of land use rights and ownership of houses and other land-attached assets containing an error (a copy);

c/ The written request for registration containing an error (a copy);

d/ The document of authorization, in case the registration requester is an authorized person (1 copy or certified copy).

Chapter III

IMPLEMENTATION PROVISIONS

Article 29. Effect

1. This Circular takes effect on January 15, 2012.

2. Promulgated together with this Circular are the following forms:

a/ Form No. 01/DKTC: Written request for registration of mortgage of land use rights and land-attached assets;

b/ Form No. 02/DKTC: Written request for registration of change of registered mortgage content;

c/ Form No. 03/XDK: Written request for deregistration of mortgage of land use rights and land attached assets;

d/ Form No. 04/DKVB: Written request for registration of written notification of the disposal of mortgaged assets;

e/ Form No. 05/SCSS: Written request for error correction;

f/ Form No. 06/BSTS: Additional page on mortgaged asset;

g/ Form No. 07/BSCB: Additional page on parties to mortgage contract;

h/ Form No. 08/DMHDTC: List of registered mortgage contracts

i/ Form No. 09/STN: Register of receipt of dossiers of registration of mortgage of land use rights and land-attached assets.

3. This Circular replaces the following

circulars:

a/ Joint Circular No. 05/2005/TTLT-BTP-BTNMT of June 16, 2005, of the Ministry of Justice and the Ministry of Natural Resources and Environment, guiding the registration of mortgage and guarantee with land use rights and land-attached assets;

b/ Joint Circular No. 03/2006/TTLT-BTP-BTNMT of June 13, 2006, of the Ministry of Justice and the Ministry of Natural Resources and Environment, amending and supplementing a number of provisions of Joint Circular No. 05/2005/TTLT-BTP-BTNMT;

c/ Joint Circular No. 06/2010/TTLT-BTP-BTNMT of March 1, 2010, amending and supplementing a number of provisions of Joint Circular No. 05/2005/TTLT-BTP-BTNMT and Joint Circular No. 03/2006/TTLT-BTP-BTNMT.

Article 30. Transitional provisions

1. In case a registration requester has a land use right certificate granted under the 1987 Land Law, the 1993 Land Law or the 2003 Land Law; or a house ownership certificate granted under the 2005 Housing Law; or a certificate of house ownership and land use rights granted under Decree No. 60/CP; a certificate of ownership of houses or construction works granted under Decree No. 95/2005/ND-CP and has no demand for changing it into a certificate of land use rights and ownership of houses and other land-attached assets under the 2009 Law Amending and Supplementing a Number of

Articles of Laws Concerning Capital Construction Investment and Decree No. 88/2009/ND-CP, he/she may use such certificate instead of a certificate of land use rights and ownership of houses and other land-attached assets under this Circular.

2. In case a credit contract contains terms on mortgage of land use rights and land-attached assets or a contract on mortgage of land use rights and land-attached assets is signed before or at the same time with a credit contract, within 5 working days after signing the credit contract, either party or both parties to the mortgage contract shall submit a mortgage registration dossier.

In case of failing to request registration within the above time limit due to the fault of the requester, the land use right registration office shall still carry out the registration but request the registration requester to take responsibility under the law on sanctioning of administrative violations related to land.

3. In case a registration requester registered the mortgage of land use rights and land-attached assets before the effective date of the 2009 Law Amending and Supplementing a Number of Articles of Laws Concerning Capital Construction Investment and Decree No. 88/2009/ND-CP, but now wish to change his/her certificate into a certificate of land use rights and ownership of houses and other land-attached assets, he/she is not required to have the mortgage deregistered. After completing procedures for changing into a certificate of land

use rights and ownership of houses and other land-attached assets under law, the land use right registration office shall write the mortgage registration content from the old certificate into the certificate of land use rights and ownership of houses and other land-attached assets.

4. The land use right registration offices may further use the registers of receipt of mortgage registration dossiers opened before the effective date of this Circular till the last page of the registers, then they shall use the model register issued together with this Circular.

Article 31. Implementation responsibility

1. Provincial-level People's Committees shall organize and direct provincial-level Departments of Justice and Natural Resources and Environment and related local departments and sectors and People's Committees of districts, towns and provincial cities in implementing this Circular.

2. Any problems arising in the implementation should be promptly reported to the Ministry of Justice and the Ministry of Natural Resources and Environment for study and settlement.

For the Minister of Justice

Deputy Minister

DINH TRUNG TUNG

For the Minister of Natural Resources

and Environment

Deputy Minister

NGUYEN MANH HIEN