

How to Register Mortgage?

What is mortgage?

According to the Civil Code of Georgia mortgage is one of the means of securing a claim. It means that an immovable thing/immovable property item (e.g. land with or without its attached buildings and structures, units of buildings and structures) can be used (encumbered) to secure a claim in such a manner as to grant to the secured creditor the right to receive satisfaction out of the thing (land with or without its attached buildings and structures, units of buildings and structures) before other creditors through the sale or transfer of the thing into his/her ownership (mortgage).

A mortgage shall acquire legal force upon its registration in the Public Registry. The registration shall be carried out by one of the parties (borrower, owner, creditor, lender/mortgagee) presenting the relevant mortgage contract to NAPR.

A mortgage contract shall indicate the identities of the owner of the immovable thing, the mortgagee and any possible third-party debtor. By agreement of the parties, the contract may also indicate the extent of the secured claim, the interest, the period of performance and other terms.

A mortgage contract shall be executed in writing and whether attested by a notary or by an operator in the Public Hall of Justice/NAPR.

A mortgage contract concluded to secure a claim arising from a loan agreement shall be attested by a notary. In attesting the mortgage contract, the notary shall inform the parties to the contract of the legal implications of their violation of the obligations under the loan agreement and the mortgage contract. However, this requirement shall not apply to mortgage contracts made to secure the claims of commercial banks, microfinance organizations, non-bank deposit institutions – credit unions.

An immovable thing owned by a natural person or another natural person may not be used as security for a claim proceeding from a loan/credit agreement to be granted/granted to the natural person (including to the individual entrepreneur). This provision does not apply if the agreement concluded between the parties specifies that a mortgaged immovable thing will be transferred to a natural person (including to an individual entrepreneur) for using as a dwelling room, or to a mortgagee legal person for using as a domicile (legal address).

According to the law, an immovable thing may be re-mortgaged several times. The order of priority shall be determined by the date of registration of mortgage applications.

The mortgaged immovable thing may be transferred to the creditor (mortgagee) if this is explicitly stated in the mortgage contract.

If the owner of an immovable thing delays satisfaction of the claim secured by the mortgage, the mortgaged thing may be transferred to the creditor (mortgagee) if the creditor (mortgagee) and the owner of the mortgaged immovable thing jointly apply to NAPR.

Arising of mortgage, its change or termination can be registered in the Public Registry.

Registration of arising of mortgage means recording the data on arising of such a right in the Public Registry. A mortgagee (creditor) is the one most interested in the registration of mortgage because if the debtor does not satisfy the claim secured by the mortgage, the mortgagee may demand sale of the immovable thing.

The registration of a change in the mortgage means recording data on mortgage change in the Public Registry. The registration of a change is needed when the parties to a mortgage contract want to change the contract terms.

Registration of mortgage termination means recording of data on such a termination in the Public Registry.

In order to register arising of mortgage, its change or termination an interested person shall apply to the territorial registration offices of NAPR, Public Service Hall (PSH) and submit the documents as specified in the law.

Documents to be Submitted for Registration:

- Application (an electronic form to be filled by an operator receiving the documents);
- Copy of an interested person's ID;
- A duly attested mortgage contract;
- For the registration of a mortgage change an interested person shall submit the relevant mortgage contract and an agreement on changing its terms;
- For the registration of a mortgage termination besides a contract or an agreement, an interested person can also submit a duly attested letter by a mortgagee's (creditor's) on the registration of a mortgage termination;
- Proof of payment of a service fee.

Service Fee and Terms

Within 4 work days – GEL 75

Accelerated services are also available for the following fees:

On the submission date of an application - GEL 300;

In one workday - GEL 220.

The registration service period starts on the next day of an application submission date and ends on the last day of the period. The rule does not apply to the services provided on the submission date of an application.

If a service is to be provided on the submission date of an application, the registration service period ends at close of business (COB) on the same day.

If a service is to be provided within one workday after the submission of an application, the registrations service period ends at COB of the last day of the service period.

If the last day of the service period is a holiday, the next workday is considered as the last day of a service period.

Additional Information

If an interested person wants to register a change by proxy (through an authorized representative), in addition to the aforementioned documents, a duly attested proxy and a copy of a representative's ID shall be submitted.

Besides the documents listed above, NAPR has the right to request the submission of any additional documents/information needed for the registration.