

## NEW PLEDGE WITHOUT CONVEYANCE

On June 5 was published the Law No. 20,190, known as MKII, which introduced new statutory rules in respect of pledges without conveyance.

Purposes: The purpose of this law is: a) unify and simplify the current regulations regarding the pledge without conveyance; b) extend the range of assets susceptible of being pledged; and c) create the Register of Pledges without Conveyance, centralized and electronic, which will facilitate the provision of information and safety in the creation of new pledge rights.

This new pledge replaces the following special pledges: 1) agrarian and industrial pledges; 2) pledge on personal properties purchased with a deferred payment; 3) pledge without conveyance; 4) pledge on public works concessions; 5) pledge on port facilities; 6) pledge on public use properties; 7) pledge on state-owned properties; 8) pledge on shared urban financing; and 9) Sports Act pledge.

### ***Obligations that may be secured with this pledge.***

Any type of obligations, either present or future and whether they are determined at the time of the pledge agreement or not.

***Properties susceptible of being pledged.*** The Law establishes that all type of tangible or intangible personal properties, either present or future, with the exception of vessels and aircrafts, which shall be governed by their special rules, may be pledged. In addition, there may be pledged: a) the concession rights that, in accordance with the laws under which are regulated, are susceptible of being pledged; b) nominative credits; c) electronic or dematerialized securities; d) future properties or rights; e) real properties by destination or adherence; i) things that have not arrived to the country; and g) groups of properties of a same class.

***Register of Pledges without Conveyance.*** This Law creates the Register of Pledges without Conveyance, which shall be kept by the Civil Registration and Identification Service as per a Regulation that has not been issued yet. Such

Regulation shall establish the mentions that the recording of the pledge must contain, the procedures to request and deliver the registration information and the organization, operation and basic requirements of same.

It shall be possible to create pledge rights on a same property, being preferred by the chronological order of their respective registration in the Register of Pledges without Conveyance.

Only a court may order that a pledge registered in the Register of Pledges without Conveyance may be amended or eliminated.

***Foreclosure.*** For the legal collection of the secured obligation, the pledge will be foreclosed in accordance with the rules of the executory proceeding. The public deed or the authorized copy of the private instrument evidencing the pledge agreement, shall be executory title without the need for a previous recognition, in respect of the obligations which are assumed in accordance with same or are precisely specified. Upon the service of process to the debtor and the pledgor, the pledgee shall have the right to request the immediate foreclosure of the pledge, even if objections have been filed. The court shall resolve, and have authority to demand that the creditor posts a bond to guarantee the results of the lawsuit.

***Assignment of the pledge rights.*** The assignment of the real pledge rights as well as its preference may be made to the extent the secured credit and the right to assign the pledge rights expressly appears in the Register of Pledges without Conveyance.

***Effectiveness.*** The new system of pledge without conveyance shall become effective upon the lapse of 90 days counted from the date of the publication of the above-mentioned Regulation in the Official Gazette.

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