

### 303 SECURED LOANS AND OTHER CREDIT ACCOMMODATIONS

A loan may be considered secured by collateral to the extent the estimated value of net proceeds at disposition of such collateral can be used without legal impediment to settle the principal and accrued interest of such loan: *Provided*, That such collateral must have an established market and the valuation methodology used is sound, and: *Provided further*, That in the case of real estate collateral, the maximum collateral value shall be sixty percent (60%) of its value as appraised by an appraiser acceptable to the Bangko Sentral.

A loan may also be considered as secured to the extent covered by a third party financial guarantee or surety arrangement where the credit enhancement provider is itself considered to be of high credit quality (credit rating of at least AA or equivalent) or is considered to be such by the Bangko Sentral.

Finally, a loan may be secured by a combination of acceptable collateral and guarantee arrangements as defined above, provided such arrangements are independent of one another for credit enhancement purposes.

***Participation in foreclosure proceedings.*** Foreign banks which are authorized to do banking business in the Philippines through any of the modes of entry under Sec. 103 shall be allowed to bid and take part in foreclosure sales of real property mortgaged to them, as well as to avail of enforcement and other proceedings, and accordingly take possession of the mortgaged property, for a period not exceeding five (5) years from actual possession which excludes the redemption period, as defined under this Section on Redemption of foreclosed real estate mortgage, unless actual possession was acquired earlier: *Provided*, That in no event shall title to the property be transferred to such foreign bank.

In case said bank is the winning bidder, it shall, during the said five (5)-year period, transfer its rights to a qualified Philippine national, without prejudice to a borrower's rights under applicable laws. Should the bank fail to transfer such property within the five (5)-year period, it shall be penalized one half (1/2) of one percent (1%) per annum of the price at which the property was foreclosed until it is able to transfer the property to a qualified Philippine national.

To enable the Bangko Sentral to determine compliance with the foregoing, the foreign bank shall maintain, and make readily available for inspection, information pertaining to individual mortgaged properties foreclosed.

This provision does not limit the right of the mortgagee-bank to own condominium units as provided under existing laws.

**Foreclosure by thrift banks.** The foreclosure of mortgages covering loans granted by TBs and executions of judgment thereon involving real properties levied upon by a sheriff shall be exempt from the publications in newspapers now required by law where the total amount of loan, excluding interests due and unpaid, does not exceed P100,000 or such amount as the Monetary Board may prescribe as may be warranted by prevailing economic conditions and by the nature of service of customers served by each category of the TB. It shall be sufficient publication in such cases if the notices of foreclosure and execution of judgment are posted in the conspicuous area of the TB's premises, municipal building, municipal public market, the barangay hall, and the barangay public market, if there be any, where the land mortgaged is situated within a period of sixty (60) days immediately preceding the public auction of execution of judgment. Proof of publication as required herein shall be accomplished by an affidavit of the sheriff or officer conducting the foreclosure sale or execution of judgment and shall be attached with the records of the case.

A TB shall be allowed to foreclose lands mortgaged to it: *Provided*, That said lands shall be covered under R.A. No. 6657.

**Foreclosure by rural/cooperative banks.** The foreclosure of mortgages covering loans granted by RBs and executions of judgment thereon involving real properties levied upon by a sheriff shall be exempt from the publications in newspapers now required by law where the total amount of loan, excluding interests due and unpaid, does not exceed P100,000 or such amount as the Monetary Board may prescribe as may be warranted by prevailing economic conditions. It shall be sufficient publication in such cases if the notices of foreclosure and execution of judgment are posted in the most conspicuous area of the municipal building, the municipal public market, the RB, the barangay hall, and the barangay public market, if any, where the land mortgaged is situated during the period of sixty (60) days immediately preceding the public auction of execution of judgment.

Proof of publication as required herein shall be accomplished by an affidavit of the sheriff or officer conducting the foreclosure sale or execution of judgment and shall be attached with the records of the case: *Provided*, That when a homestead or free patent is foreclosed, the homesteader or free patent holder, as well as his heirs shall have the right to redeem the same within one (1) year from the date of foreclosure in the case of land not covered by a Torrens Title or one (1) year from the date of the registration of the foreclosure in the case of land covered by a Torrens Title. *Provided, further*, That in any case, borrowers, especially those who are mere tenants, need only to secure their loans with the produce corresponding to their share.

In the case of Coop Banks, the foreclosure of mortgages and execution of judgment thereon involving real properties levied upon by a sheriff shall be exempt from the publications in newspaper now required by law where the total amount of loan, excluding interests due and unpaid, does not exceed P250,000 or such amount as the Bangko Sentral may prescribe as may be warranted by

prevailing economic conditions and by the nature and character of the Coop Banks. It shall be sufficient publication in such cases if the notices of foreclosure and execution of judgment are posted in conspicuous areas in the bank's premises, municipal hall, the municipal public market, the barangay hall and the barangay public market, if any, where the property mortgaged is situated during the period of sixty (60) days immediately preceding the public auction or execution of judgment. Proof of publication as required herein shall be accomplished by an affidavit of the sheriff or officer conducting the foreclosure sale or execution of judgment and shall be attached to the records of the case.

An RB/Coop Bank shall be allowed to foreclose lands mortgaged to it including lands covered by R.A. No. 6657 (The Comprehensive Agrarian Reform Law of 1988), as amended: *Provided*, That said lands shall be subject to the retention limits provided under R.A. No. 6657: *Provided, further*, That a rural bank's power to foreclose lands mortgaged to it shall be subject to the limitations in the succeeding paragraph.

RBs which are not qualified to acquire or hold land in the Philippines pursuant to existing laws shall be allowed to bid and take part in foreclosure sales of real property mortgaged to them, as well as to avail of enforcement and other proceedings, and accordingly to take possession of the mortgaged property, for a period not exceeding five (5) years from actual possession which excludes the redemption period, as defined under this Section on Redemption of foreclosed real estate mortgage, unless actual possession was acquired earlier: *Provided*, That in no event shall title to the property be transferred to such RB.

In case the RB, which is not qualified to acquire or hold land in the Philippines, is the winning bidder, it shall, during the said five (5) year period, transfer its rights to a qualified Philippine national as defined under existing laws without prejudice to a borrower's right under applicable laws. Should said unqualified RB fail to transfer such property within the five (5) year period, it shall be penalized at one-half (1/2) of one percent (1%) *per annum* of the price at which the property was foreclosed until the property is transferred to a qualified Philippine national.

To enable the Bangko Sentral to determine compliance with the foregoing, RBs not qualified to acquire or hold land in the Philippines shall maintain, and make readily available for inspection, information pertaining to individual mortgaged properties foreclosed.

**Transitory provisions.** An RB established and operating prior to the effectivity of R.A. No. 10574, and which is considered as an RB not qualified to acquire or hold land in the Philippines starting 13 September 2013, shall:

- a. submit to the appropriate supervising department of the Bangko Sentral a divestment plan for the disposal of its title/interest in all land properties held by it; and

- b. transfer for a period of five (5) years existing owned or acquired properties to qualified Philippine nationals; *Provided*, That upon the expiry of the said five (5)-year period, RBs not qualified to acquire or hold land in the Philippines which fail to transfer their properties to qualified Philippine nationals shall be subject to the penalties under this Section on Foreclosure by rural/cooperative banks.

***Redemption of foreclosed real estate mortgage.*** In the event of foreclosure, whether judicially or extrajudicially, of any mortgage on real estate, the mortgagor or debtor shall have the right within one (1) year after the sale of the real estate, to redeem the property by paying the amount due under the mortgage deed, with interest thereon at the rate specified in the mortgage, and all costs and expenses incurred by the bank or institution from the sale and custody of said property less the income derived therefrom. However, the purchaser at the auction sale concerned shall have the right to enter upon and take possession of such property immediately after the date of the confirmation of the auction sale and administer the same in accordance with the law.

Juridical persons, whose property is being sold pursuant to an extra-judicial foreclosure, shall have the right to redeem the property in accordance with this provision until, but not after, the registration of the certificate of foreclosure sale with the applicable Register of Deeds which in no case shall be more than three (3) months after foreclosure, whichever is earlier.

*(Circular Nos. 858 dated 21 November 2014, and 855 dated 29 October 2014)*