

THE LAW ON SECURITY INTERESTS IN



MOVABLE PROPERTY *Simplified*



This booklet has been designed to simplify the security interests in moveable property law by highlighting the key concepts and information contained in the law. In general, this law enables anyone- individual or legal entities such as companies, associations, NGO's to acquire a loan from any financial institution using their movable property as security.

The law allows for a very wide range of movables that can be used as security including personal assets and business assets. By providing for a wide range of options available to a borrower, the law makes it easier to access credit thus enabling your personal and business growth.

This is of particular benefit to SME's which had traditionally faced barriers in accessing finance as the previous laws and regulations only recognized immovable property as acceptable security for loans.

Please note that this booklet provides a simple guide to the security interests in moveable property law and only refers to the key concepts. It is not an exhaustive text on the law and should you require detailed information on the law that is not covered here, please visit the Office of the Registrar General at RDB offices or email us @..... You may also refer to the law itself; Law no. 34/2013 of 24/05/2013 on security interests in movable property.



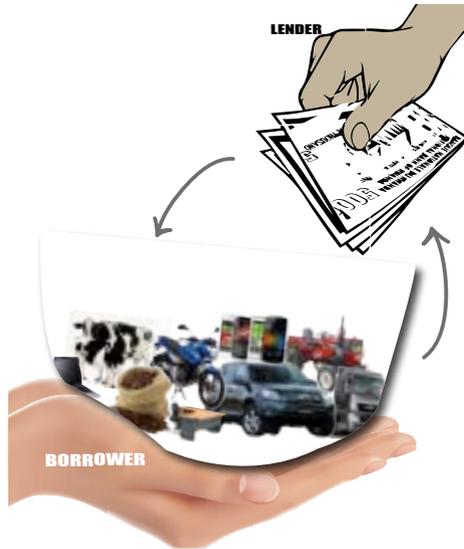
We trust that you will find this guide useful and assure you of our continued commitment to providing you with information on the laws and regulations that affect your business.

Louise Kanyonga

Registrar General

What is a security interest in movable property?

A security interest is created when a borrower and the lender sign an agreement to give the borrower a loan which is secured by the movable asset provided by the borrower. This loan is payable in installments over a set period of time specified in the loan agreement. The borrower must have rights in the property and the lender must give a value to the property.



The borrower will continue to have rights on the security until the loan is cleared but he/she cannot transfer this security without the lender's authorization. If the borrower fails to pay off their loan, then the security is taken up by the lender and they may use the property to recover their loan.

What benefits do I get when I register my security interests?

The registration of your security interests in movable property at RDB comes with benefits for the borrower, the lender and the economy. For the borrower, registration enables you to acquire a loan from a bank or financial institution to either finance your business or personal activities.

To the lender, registration is the only proof of security for any loan given to a borrower and therefore ensures you can recover your loan upon default. For the overall economy, registration of security interests in movable property is a big boost to private sector development.

How do I register my security interests in movable property online?

All registration of security interests in movable property is done online through the Registration of Movable Collateral System (RoMC). The on-line registration process is simple- it is done by the lender with written approval from the borrower, the owner of the collateral (if different from the borrower) and his/her spouse.

What are the requirements for registration of security interests in movable property?

Both legal entities and individuals have different requirements for registration of security interests in movable property. They include the following:

Requirements for Individuals:

- Notarized Abstract of the movable collateral agreement signed by the lender, borrower and property owner if is different from the borrower.
- General or detailed description of the collateral and its value given by the lender
- Payments slip of registration fee of RWF 20,000 for new registration and RWF 10,000 for any registration of amendment and transfer of security interests.

NB: NB: Registration fees may change from time to time.

Requirements for a legal entity:

- The same requirements as indicated for an individual where applicable.
- A notarized board resolution authoring the company to secure a loan.
- A copy of the registration certificate for legal entities other done companies registered with the Office of the Registrar General.

NB: Registration fees may change from time to time.

How long does it take to register?

Registration takes a maximum of 24 hours upon submission of the application form and all the required documents listed above.

What is the duration of a security interests registration?

The duration of registration of security interests correspond to the duration of the contract entered into between the lender and the borrower. However, the lender and borrower may decide to extend or reduce the duration at any time through a written amendment. If the borrower clears the loan before the due date, they should ensure that they inform the Registrar General of this so that the asset is removed from the register. In general, the Registrar General must be informed at all times of any changes made to the contract.

What kind of movable property can be used to get a loan?

The law on security interests in movable property allows for a very wide range of movables to be used as security. Therefore, you may use your personal assets such as motor vehicles, furniture, cash crops, animals; business assets such as your inventory/stock, accounts receivable, computers, office furniture, machinery etc. The law also provides for the use of assets which you shall acquire in the future- the only condition is that this must be stated in your loan contract with the lender.



When does the security interests become effective?

A security interest becomes effective only when it has been registered in the

Office of the Registrar General. Therefore if the borrower does not register the security interest they cannot enforce the security should the borrower default on the loan agreement.

Can I have more than one security interests registered on the same property?

Yes, you can have more than one security interests registered in the same movable property. If two or more security interests are held in the same asset, then they shall have priority according to the time of registration.

The first interest to be registered shall have priority over all other security interests in the same asset. This means that should there be any default in payment by the borrower, then the lender who registered their security interest first will have priority in payment. However, lenders may agree to all rank equally on the same asset by entering into a pari passu agreement.

It is important to note that where there is more than one lender on the same asset, all subsequent lenders must first get consent from the 1st rank lender before entering into a loan agreement with the borrower.

What happens when the borrower meets all his or her loan obligations?

Once the borrower meets all his or her loan obligations, the property is removed from the register at the Office of the Registrar General. The process of de-registration begins with the bank submitting the property waiver through the on-line system once the borrower meets all his or her loan obligations. The security interests is then de-registered and the owner is thereafter free to use the property as he or she pleases.

What happens when the borrower defaults on their loan payments?

The lender with priority over other lenders may take possession of the assets when the borrower fails to pay the loan as agreed in the loan agreement. The process begins with a lender giving the borrower a final demand notice. If the borrower does not pay within the time specified in the final demand notice, the lender may then request the Registrar General to issue a certificate of possession. This request must be accompanied by documents showing the closing balance of the outstanding loan including interests and penalties plus the loan history showing the borrowers failure to pay off the outstanding loan.

The Registrar General then issues the lender with the certificate of possession which allows him/her to take possession of the asset. This asset may then be sold or leased to recover the loan as indicated in the loan agreement.

Who has the right to sell the security?

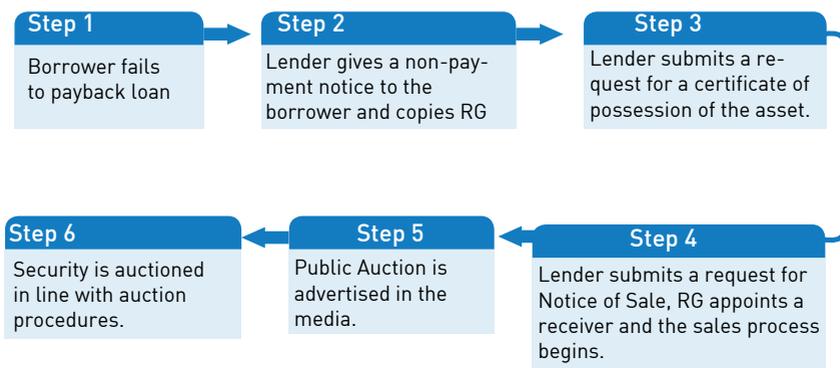
The right to sell the collateral on behalf of the lender lies with the receiver. A receiver is a person appointed by the Registrar General to take charge of an asset which a lender has chosen to sell in order to recover their loan. A receiver has the responsibility of selling the asset at market value.

Can the borrower buy-back the security before it is auctioned?

Yes, the borrower has the right to buy-back the security at any time before the lender sells the security through a public auction. When this happens, then the process of public auction immediately stops.

What is the process of selling the security?

Selling the asset is one of the options available to the lender in case the borrower fails to pay back the loan. This is also the most commonly used option by lenders. The process begins upon request by the lender and it involves the following steps:



What is the Notice of Sale?

The Notice of Sale is an instruction issued by the Registrar General that basically allows the lender to sell the moveable property over which they have security.



The Notice-of-Sale contains the following information: Description of the movable property; The market value of the property; Identification of the lender and borrower; Identification of the owner of the item; Date of the first public auction which shall not exceed 30 days from the date of issuance of the notice of sale; Identification of the appointed receiver; and Termination date of the duties of the receiver

What is contained in the advertisement for public auction?

The receiver must advertise the auction as follows:

- Advertise at least once in one of the most popular newspapers in Rwanda
- Announce at least once on the most popular radios or television networks

This announcement must contain the particulars of the movable property to be sold, the date, time and location of the public auction.



How is the money from sale through public auction used?

The money obtained from the public auction shall be used in this order; Pay the lender(s) based on their priority; Pay the costs of the auction e.g. advertisements; Pay the receiver's fees and If any surplus remains, it is given to the borrower. The money from the sale of the security is used only after approval of the auction report by the Registrar General.

How are disputes between the lender and borrower resolved?

In case disputes arise between the lender and the borrower from the agreement, interpretation and recovery of the loan secured by the movable collateral, it is resolved in the courts of law of the Republic of Rwanda.

Conclusion

It is important to note that registration of movable property is done purely online at www.org.rdb.rw. This registration is done by the lender upon approval of the borrower. All required documents are also scanned and sent online so there is no need to come physically to RDB. It is also advisable to get a copy of the movable collateral registration certificate from your lender.

Should you require any further information on registering security interests in movable property which is not included in this booklet, please refer to Law no. 34/2013 of 24/05/2013 on security interests in movable property.

