Decree No. (31) of 2016

Concerning the

Mortgage of Granted Land in the Emirate of Dubai[1]

We, Mohammed bin Rashid Al Maktoum, Ruler of Dubai,

After perusal of:

Law No. (7) of 2006 Concerning Real Property Registration in the Emirate of Dubai;

Law No. (14) of 2008 Concerning Mortgage in the Emirate of Dubai;

Law No. (4) of 2011 Establishing the Mohammed bin Rashid Housing Establishment and its Implementing Bylaw;

Law No. (7) of 2013 Concerning the Land Department;

Decree No. (4) of 2010 Regulating Grant of Title of Land Allocated for Industrial and Commercial Use in the Emirate of Dubai;

The Order Issued on 14 May 1996 Authorising the Mortgage of Land Granted by the Government of Dubai for Which Title Deeds Are Issued by the Land Department;

The Instructions Issued on 20 September 1994 Concerning Land Granted by the Government to UAE Nationals in the Emirate of Dubai; and

The Instructions Issued on 5 June 1996 Concerning the Implementation of the Order Issued on 14 May 1996 Concerning the Mortgage of Granted Land,

Do hereby issue this Decree.

Definitions
Article (1)

The following words and expressions, wherever mentioned in this Decree, will have the meaning indicated opposite each of them unless the context implies otherwise:

Emirate:	The Emirate of Dubai.

[1]*Every effort has been made to produce an accurate and complete English version of this legislation. However, for the purpose of its interpretation and application, reference must be made to the original Arabic text. In case of conflict the Arabic text will prevail.*

Government:	The Government of Dubai.
DLD:	The Land Department.
MRHE:	The Mohammed bin Rashid Housing Establishment.
Board of Directors:	The board of directors of the MRHE.
Director General:	The director general of the DLD.
Beneficiary:	A natural or legal person who has a usufruct right to Granted Land.
Granted Residential Land:	A land plot owned by the Government and granted to a Beneficiary for residential use.
Granted Commercial or Industrial Land:	A land plot owned by the Government and granted to a Beneficiary for commercial or industrial use.
Granted Land:	Granted Residential Land, Granted Commercial or Industrial Land, or any other land granted by the Government.
Mortgaged Land:	Granted Land mortgaged together with any buildings or structures thereon.
Mortgagor:	A Beneficiary who has a usufruct right to Granted Land.
Mortgagee:	A creditor who lends money to a Mortgagor against Granted Land provided as collateral.
Competent Entity:	The competent entity in the Emirate in charge of licensing the construction of buildings and other structures.

Mortgage Authorisation and Conditions
Article (2)

a. A Beneficiary is authorised to mortgage Granted Land in favour of any of the banks or financing institutions licensed to operate in the Emirate. This mortgage will be legally valid and binding on both parties.

b. For the mortgage referred to in paragraph (a) of this Article to be valid and legally effective, the following conditions must be met:

1. the purpose of mortgaging the Granted Commercial or Industrial Land must be to invest the loan in exploiting the land for the purpose for which it is granted;

2. the purpose of mortgaging the Granted Residential Land must be to invest the loan in the maintenance, expansion, construction, or reconstruction of an existing building;

3. the mortgage must be registered in accordance with the provisions and procedures stipulated in the above-mentioned Law No. (14) of 2008; and

4. any other conditions prescribed, in coordination with the MRHE, by the DLD pursuant to a resolution issued by the Director General in this regard.

Registration of Mortgages
Article (3)

a. The DLD may not register any mortgage that does not meet the conditions stipulated in paragraph (b) of Article (2) of this Decree.

b. When registering the mortgage of Granted Land, the DLD must ensure that the mortgage agreement:

    1. stipulates that the loan be used to achieve the purpose for which the land is granted;

    2. is accompanied by a building permit submitted by the Mortgagor which is issued by the Competent Entity; and

    3. is accompanied by any other documents or information the DLD may require the Mortgagor to submit to verify the authenticity of the information included in the mortgage agreement and to ensure the implementation of such agreement.

Land Granted to Entities Affiliated to the
Government and Real Estate Developers
Article (4)

a. The land granted to entities affiliated to the Government, or to companies in which the Government or its affiliated entities hold at least fifty percent (50%) of the capital, may be mortgaged without any conditions or limitations.

b. The land granted to real estate developers for the purpose of real estate development is granted on a freehold basis and may be mortgaged or disposed of in any manner whatsoever without any conditions or limitations.

Pledging the Income of Real Property Constructed on Granted Commercial or Industrial Land
Article (5)

a. Notwithstanding the provisions of Article (2) and Article (4) of this Decree, the income of the real property constructed on Granted Commercial or Industrial Land may be pledged, exclusive of the land, in favour of any of the banks or financing institutions licensed to operate in the Emirate. In such a case, the pledgee will manage the real property and collect its income until the repayment of the loan, or as agreed by both parties.

b. For the purpose of implementing the provisions of paragraph (a) of this Article, the DLD will mark an entry on the folio of the Granted Commercial or Industrial Land in the register denoting that the income of the real property constructed on that land is pledged in favour of the pledgee.

Procedures for Foreclosure on Mortgaged Land
Article (6)

Where a Mortgagor or his successor fails to perform his obligations under the mortgage agreement, the Mortgagee or his successor may initiate foreclosure proceedings on the Mortgaged Land and sell the same at public auction under the supervision of the DLD and in accordance with its adopted procedures, provided that the Mortgagor or his successor is served a notice, through the notary public, at least thirty (30) days before the commencement of foreclosure proceedings, to perform his obligations.

Hearing Claims Relating to Mortgaged Land
Article (7)

a. Courts will hear any applications or claims relating to the mortgage of Granted Land.

b. Where a Mortgagor or his successor defaults on repayment of his debt within the grace period prescribed in Article (6) hereof, the execution judge will issue, upon the Mortgagee's request, a foreclosure order over the mortgaged real property in order to sell the same at public auction in accordance with the relevant procedures adopted by the DLD.

Payment of Mortgaged Land Foreclosure Proceeds
Article (8)

a. Without prejudice to the rights of the MRHE as a preferential creditor, the Mortgagor's debts will be paid from the proceeds of the foreclosure sale of the Mortgaged Land after deducting the following amounts:

1. court fees and costs;
2. the fees and costs of the sale of the Mortgaged Land at public auction and fees and costs for the registration of the sale with the DLD; and
3. the fees payable in accordance with the above-mentioned Law No. (4) of 2010 for the grant of title of land allocated for industrial and commercial use, where such fees are not paid upon the registration of the mortgage.

b. The balance of the price of sale of Granted Commercial or Industrial Land at public auction, if any, will be paid to the Mortgagor.

c. The balance of the price of sale of Granted Residential Land at public auction, if any, will be paid towards the purchase of a house that will be registered as a grant in the name of the Beneficiary or towards providing him with any other housing services as the MRHE deems appropriate. However, if the remaining amount is not sufficient to purchase a house, that amount will be paid to the Mortgagor.

Sale of Granted Residential Land
Article (9)

Notwithstanding the provisions of Article (6) hereof and where a Mortgagor or his successor defaults on repayment of his debts, Granted Residential Land may not be sold without first obtaining the approval of the Board of Directors. This approval will be issued in accordance with the relevant rules and conditions adopted by the Board of Directors.

Mortgage Validity
Article (10)

All mortgages registered with the DLD on the land granted by the effective date of this Decree are hereby considered valid and effective.

Invalidity of Violating Dispositions
Article (11)

Any disposition or agreement concluded in breach of the provisions of this Decree will be void, will have no legal effects, and may not be registered with the DLD.

Issuing Implementing Resolutions
Article (12)

The Director General will issue the resolutions required for the implementation of the provisions of this Decree.

Repeals
Article (13)

The above-mentioned Order issued on 14 May 1996 and the instructions issued in implementation thereof on 5 June 1996 are hereby repealed. Any provision in any other legislation will also be repealed to the extent that it contradicts the provisions of this Decree.

Commencement and Publication
Article (14)

This Decree comes into force on the day on which it is issued, and will be published in the Official Gazette.

Mohammed bin Rashid Al Maktoum

Ruler of Dubai

Issued in Dubai on 1 November 2016

Corresponding to 1 Safar 1438 A.H.