



COLLATERAL REGISTRY

ALL YOU NEED TO KNOW





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FEBRUARY, 2022

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[1.0] BACKGROUND

The Collateral Registry (Ghana) [the Registry], is the first of its kind to be established on the African continent. It was operationalised by the Bank of Ghana [the Bank] on February 1, 2010 under the statutory mandate of the Borrowers and Lenders Act 2008, (Act 773). The Borrowers and Lenders Act, 2020 (Act 1052) which repealed Act 773 establishes the Collateral Registry pursuant to Section 18, to principally register security interests created by borrowers in favour of lenders. In addition to registrations, the Registry makes available to the public, information relating to security interests in property and assists with realisations of security interests amongst others.

The creation and mandate of the Registry was a response to the problems in Ghana's credit market which stifled the flow of credit to Small and Medium-sized Enterprises in particular, and the economy as a whole. For example, lenders had no effective means of knowing whether there were any existing security interests in collateral being provided by borrowers. This resulted in numerous and protracted court proceedings as well as a substantial rate of non-performing loans recorded in the books of lenders. Similarly, members of the public who wished to procure movable or immovable property such as cars and houses had no effective means of ascertaining whether such properties had been used to secure a loan.

The establishment of the Registry under the law, ushers Ghana into a secured transactions regime which establishes an order of priority of security interests, credit agreements, registration and enforcement of security interests and other related matters. Under this secured transactions regime, the mechanism for enforcing security interests among other things has significantly improved. For example, a lender, pursuant to Section 61(b) of Act 1052 has the option of realising a security

interest registered under Act 1052, without initiating proceedings in court.

The Registry has a mission of contributing significantly towards creating an enabling environment to ensure easy access to credit.

It is headed by a Registrar, appointed by the Bank who manages the day to day functions of the Registry.

[2.0] USERS OF THE REGISTRY

The services of the Registry are open to all Banks, Savings and Loans Companies, Rural and Community Banks, Finance Houses, Leasing Companies, Licensed Microfinance Companies, Microcredit Companies, Secured Creditors (i.e. Trade Creditors, Debenture Holders etc.), representatives of the aforementioned lending institutions (i.e. lawyers/law firms, or consultants), foreign institutions and the public.

[3.0] SERVICES PROVIDED BY THE REGISTRY

The Registry operates an electronic web-based platform and provides the following services to its clients:

- a platform for registering security interests in both movable and immovable assets;
- a platform for conducting searches on assets pledged as collateral;
- assists with the realisation of security interests in property upon default by a borrower;
- a platform for registering and conducting other post - registration activities (i.e. discharges, amendments, transfer of registration, subordination of registration, appointment of receiver or manager and notices of default).

[3.1] Registration of Security Interests

(1) Act 1052 requires a lender or representative of a lender to register a security interest with the Collateral Registry within twenty-eight [28] days after the date of creation of that security interest.

(2) A lender or a representative of a lender shall register a security interest in accordance with Act 1052 as well as the Rules for the Effective Implementation of Act 1052, subject to the terms and conditions of use of the Registry if that person has satisfied the following conditions:

- been identified as the registrant (i.e. lender or a representative of the lender);
- paid for the registration as specified under Section 28(1)(b) of Act 1052;
- provided the registration information required by Act 1052 and the Rules.

(3) Generally, for the purpose of registration of a security interest, the minimum amount registrable shall be five hundred Ghana Cedis (GH¢500.00).

(4) Pursuant to Section 6 of Act 1052, a credit agreement is effective between parties to an agreement without registration under Act 1052, but the right of the lender to enforce the security interest is subject to the rights of any other lender or person entitled to priority under Act 1052.

[3.2] Date and Time of a Registration

(1) The Registry shall indicate the date and time of a registration and designate a registration number to each registration.

(2) The Registry shall index registrations in the order that they are received.

(3) The acknowledgement of the registration by the Registrar shall be delivered to the registrant electronically.

[3.3] Rejection of a Registration Form

The Registrar shall not accept a registration where:

- the information is not submitted in the prescribed form;
- the prescribed fee has not been paid by the person submitting the registration form, unless satisfactory arrangements for payment are made in accordance with the Rules.

[3.4] Incorrect or Insufficient Information

(1) The effectiveness of a registration shall not be affected by any defect, irregularity, omission or error, unless the defect, irregularity, omission or error is misleading with respect to the correct collateral identifier of the collateral registered or the correct identifier of the borrower.

(2) Where an error is identified in a registration, the registration shall not be ineffective with respect to the borrower or collateral that is sufficiently identified or described.

[3.5] Information Required for Registration

A registrant is required to provide the following information in the appropriate field on the registration form:

- lender information;
- borrower information;
- collateral information;
- the maximum amount secured by the security interest;
- the nature, any restrictions and the date of creation of the security interest;
- the duration of the credit agreement specifying the security interest creation date and loan maturity date;
- guarantor information.



[3.6] Registration of Amendments

An amendment to a registration may be effected only by a registrant by registering that amendment on the Collateral Registry System. An amendment shall include:

- a removal of a lender or borrower where two or more lenders are identified in the registration;
- an addition of a lender or borrower;
- an addition, removal or change of collateral;
- a change of the name of the borrower;
- a change of the name of the lender;
- a change of the address of the borrower or lender.

[3.7] Duration of Effectiveness of Registration

(1) A registration is effective from the date and time that registration is acknowledged by the Registry and entered into the Register.

(2) A registration shall remain effective until discharged by the registrant.

[3.8] Priority of Registration

(1) A security interest registered under this Act shall irrespective of the time of registration, have priority over any other security interest registered under any other enactment.

(2) Subject to the Registrar's approval and the rights of any other lender or person entitled to priority under Act 1052, a lender shall register or cause to be registered the particulars of a security interest after twenty-eight [28] days of the creation of the security interest, where obligations under the credit agreement remain; irrespective of the loan maturity date.

[3.9] Registration of Notice of Default and its Removal

(1) Upon delivery of a notice of default to a borrower, a lender shall register a notice of default with the Registry and indicate the date the default occurred and the date the borrower received the notice of default in writing from the lender.

(2) The lender shall register a removal of the notice of default where the borrower cures the default within thirty [30] days after receipt of the notice of default by the borrower.

[3.10] Discharge of Registration

(1) A lender shall discharge or cause a discharge of a registration with the Registry and shall indicate one of the following:

- the obligations under the credit agreement to which the registration relates have been performed and there is not a commitment to make a future advance;
- the lender consents to the release of whole or part of the security interest described in the registration;
- the collateral has been sold; or
- the collateral has been retained; or
- the debt has been settled and the collateral has been redeemed; or
- the registration was effected fraudulently.

(2) A lender shall give to the borrower, a Memorandum of Release of Debt issued by the Registry within five days upon a discharge of a registration.

(3) The Memorandum of Release of Debt issued by the Registry upon a discharge of registration shall specify whether the security interest is released in whole or in part.

[3.11] Registration of Appointment or Removal of Receiver or Manager

(1) A lender that appoints a receiver or manager or obtains an order for the appointment of a receiver or manager shall register within five (5) days of the occurrence of events, a notice to that effect to the Registry.

(2) Where a person appointed as receiver or manager ceases to act as receiver or manager or relinquishes possession after having entered into possession or is removed as receiver or manager, the lender shall within ten (10) days after the occurrence of the events register a notice to that effect to the Registry.

[4.0] SEARCHES

(1) A person may without having to provide reasons, conduct a search and obtain the results of the search. A person may conduct a search by using one of the following search criteria:

- the name of the borrower and/or borrower ID number;
- the collateral identifier; or
- the security interest registration number.

(2) A search result shall either return zero (0) records against the specified search criterion or return all registrations that exist in the Registry record with respect to the specified search criterion at the date and time when the search was conducted.

(3) The result of the search issued by the Registry is evidence of the existence or absence of the registration on the Register at the date and time the result is issued and is admissible as evidence in court proceedings.

[5.0] REALISATION WITHOUT COURT ORDER

(1) A lender that intends to realise a security interest registered at the Registry without a court order shall register a notice of that intention thirty [30] days after the date of receipt of the notice of default by the borrower and in the case of perishable goods, immediately after the receipt of the notice of default by the borrower.

(2) The Registrar shall certify the realisation process by issuing a certificate known as Memorandum of No Objection upon satisfaction that all the necessary requirements have been met.

(3) A lender shall realise the collateral by public tender, private sale or by auction in accordance with the Auction Sales Act, 1989 (P.N.D.C.L. 230).

(4) An action brought to realise a security shall be by Motion on Notice under Order 19 of the High Court [Civil Procedure] Rules 2004 [C.I.47].

[6.0] DISTRIBUTION OF PROCEEDS OF SALE

(1) A lender who realises collateral shall, before applying the net proceeds of the sale towards the satisfaction of the debt or other obligation secured by the security interest of the lender, apply the net proceeds of the sale towards the following:

- the reasonable costs and expenses of the sale incurred by the lender;
- reasonable legal expenses;
- the satisfaction of the debt of any prior interest registered under Act 1052 or lien arising by operation of law.

(2) Surplus proceeds from the sale of collateral shall be paid into a designated escrow account agreed by parties

who may have subordinate security interests under Act 1052 and shall be paid to a person who has a subordinate security interest or any person that claims an interest in the collateral upon the order of a court in respect of the proceeds.

[7.0] BORROWER'S RIGHT TO DEMAND ADDITIONAL INFORMATION

A lender shall not later than five (5) days upon the request of a borrower, provide that borrower with a statement capturing the status of the loan detailing the following:

- any payments made;
- the remaining balance;
- any fees;
- any interests.

[8.0] FEES FOR REGISTRY SERVICES

The fees for the Registry services are as follows:

- Registrations of security interests: **GH¢20.00**;
- Late registration of security interest: **GH¢25.00**;
- Searches: **GH¢10.00**.

These fees shall be determined by the Registry periodically in accordance with Section 77 of Act 1052.

[9.0] ACCOUNT SETUP

Clients have the option to be set up as either prepaid or postpaid users.

- ***Prepaid Users***

In order to access the Registry's services, prepaid users may pay via the Collateral Registry's online payment portal (i.e. either by Mobile money, Visa or MasterCard)

or pay into the Collateral Registry Income Account (A/c no. PL 52433) at the Banking Hall of the Bank of Ghana Head Office or any of the regional branches.

- ***Postpaid Users***

These are mostly institutions which hold accounts with the Bank of Ghana such as the banks. In order for any postpaid user to access the Registry's services, such a user will have to officially authorise the Collateral Registry to debit their account held at the Bank on behalf of the postpaid user.

[10.0] ONLINE PAYMENTS

Clients who do not have a user account may make payment for a search on the Registry's platform. This can be done by following the steps below:

- Visit our website at **www.collateralregistry.gov.gh**;
- Select the ***Search the Registry*** option;
- Select ***Purchase Search Code***;
- Enter your personal and billing information. Select ***Continue***;
- Review the information entered then select ***Pay*** to be redirected to the payment page to complete the transaction;
- After successfully completing the payment, you will receive an SMS notification confirming the status of your transaction;
- Next, you should receive an SMS notification from the Registry containing the search code;
- Upon receiving the search code, proceed to perform your search.

Clients who have user accounts in order to make a payment may make payments on the Registry's platform. The following steps should be followed:

- Visit our website at **www.collateralregistry.gov.gh**;
- Select ***Login*** and enter your login details;

- Select **Payment** then select **Make an Online Payment**;
- Enter your billing information then click **Continue**;
- Review the information entered then select **Pay** to be redirected to the payment page to complete the transaction;
- After successfully completing the payment, you will receive an SMS notification confirming the status of your transaction.

[11.0] DISCLAIMER OF RESPONSIBILITY

The Bank shall not be liable for the following:

- the authenticity or otherwise of any information entered on a registration form by a registrant;
- any inaccuracies or misrepresentations revealed in a search result from the Registry record obtained by a searcher;
- the validity or otherwise of a credit agreement or any other agreement between the lender and the borrower.

[12.0] BENEFITS

- The enactment of Act 1052 and the establishment of the Collateral Registry has stimulated the use of diverse assets as collateral which has significantly increased Small and Medium-sized Enterprises access to credit, [e.g. accounts receivable, machinery, equipment, vehicles etc.];
- Searches can be conducted on property submitted to lenders for credit, to ascertain whether or not such a property is encumbered and the extent of the encumbrance;
- A search can be conducted at the Collateral Registry

on property before a purchase, to ascertain whether that property has been used as collateral for credit;

- Lending in general has become less risky; and
- Clarity in priority status and the enforcement of rights over a security interest has significantly been enhanced.

CONTACT US:

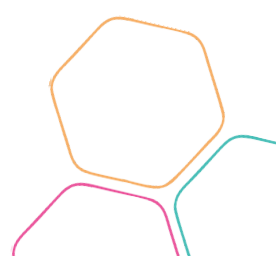
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