

LAW 129 (dated 31 December 2013)

That promotes credit access, modernizes the regime for secured transactions using moveable assets, and prescribes other provisions

THE NATIONAL ASSEMBLY

DECREES:

Chapter I General Provisions

Article 1. This Law promotes access to credit by broadening the secured transaction regime and simplifying the proceedings for their constitution and application.

Article 2. This Law is designed to regulate moveable asset mortgages to collateralize any obligations, present or future, determined or to-be-determined, and other mechanisms not considered in the law regulating pledges, such as receivables mortgages, inventory and intellectual property rights mortgages, and any other contractual clause that involves collateral on property not covered by the pledge, which may be established as a moveable asset mortgage.

For all legal purposes, it is understood that the difference between a moveable asset mortgage and a pledge is that in the moveable asset mortgage, the lender holds a lien against the movable property (moveable asset) until the loan has been satisfied, at which point the borrower resumes full control of the moveable asset.

Article 3. For the purposes of this Law, the following terms will be understood as follows:

1. *Secured Creditor.* A creditor or lender that accepts collateral for the extension of credit.
2. *Moveable asset.* Any tangible or intangible property, as defined by the Civil Code, or rights over which the mortgage is constituted.
3. *Ascribable moveable asset.* Any asset that can be identified as resulting from the originally encumbered property, such as proceeds, new property, including, among

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- others, cash and deposits in bank accounts and investment accounts, resulting from the disposal, conversion or replacement of the collateralized property, regardless of the number and sequence of these disposals, conversions or replacements. It also includes indemnity payments from insurance policies protecting the collateralized property, as well as any other indemnity rights for losses, damages, or harm caused to the moveable asset and its dividends.
4. *Moveable asset Mortgage Contract.* A contract by means of which the real mortgage right on a moveable asset or assets is constituted.
 5. *Intellectual Property Right.* Those established by Law 64 of 2012.
 6. *Industrial Property Rights.* Those established by Law 35 of 1996.
 7. *Debtor.* Any person that must honor a secured obligation.
 8. *Account Debtor.* The debtor of an account receivable that was ceded as a moveable asset mortgage by the creditor of that account receivable.
 9. *Settlement Form.* The form confirming the settlement of the moveable asset mortgage and including the data required by this Law. This form is used to record the settlement of the moveable asset mortgage in the Registry or Relevant Registry in those cases in which this Law does not require the formality of a public deed.
 10. *Foreclosure Form.* The Form used to record the beginning of the creditor's nonjudicial foreclosure of the moveable asset mortgage in the Registry or Relevant Registry, for those cases in which this Law permits this action.
 11. *Filing Form.* The form used to register the moveable asset mortgage and the data required by this Law. This form is used to file a moveable asset mortgage in the Registry or Relevant Registry, for those cases in which this Law does not require the formality of a public deed.
 12. *Amendment Form.* The form used to register amendments to the moveable asset mortgage and the data required by this Law, for those cases in which this Law does not require the formality of a public deed.
 13. *Guarantor.* The owner or holder of rights to the property on which the mortgage is constituted.
 14. *Moveable asset mortgage.* Real right encumbering a moveable asset or right.

15. *Acquired moveable asset mortgage.* Collateral granted to a creditor, including a supplier, or lessor of a financial lease, funding the acquisition by the debtor of a tangible real or moveable property over which the moveable asset mortgage is constituted.
16. *Moveable asset secured credit mortgage.* A moveable asset mortgage over which the account debtor's solvency is secured.
17. *Moveable asset unsecured credit mortgage.* A moveable asset over which the account debtor's solvency is unsecured.
18. *Inventory.* Moveable property on sale within the current line of business of the guarantor and that could be mortgaged, as long as the contract establishes the mechanisms for replacing the property that is removed from the inventory and replaced by new moveable assets.
19. *Registry.* The Public Registry of Panama.
20. *Relevant Registry.* Any public agency, other than the Public Registry of Panama, registering the ownership of the property or titles to rights, including, without limitation, the municipalities, the Vehicle Registration Office of the Department of Transportation, the General Directorate of Industrial Property Registration, the General Directorate of Intellectual Property, and any other registry fitting this definition.
21. *Designated representative.* Any individual or legal entity designated to handle the nonjudicial settlement of the moveable asset mortgage under the provisions of this Law and as determined by the nonjudicial settlement procedure agreed to by the parties.

Chapter II Moveable Asset Mortgage

Article 4. The moveable asset mortgage referred to in this Law may be constituted over one or more specific moveable assets belonging to the person securing his obligations, over generic types of moveable assets or all of the moveable assets of any person, be these

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present or future, tangible or intangible, and having a determined value or a value to be determined in the future.

The moveable asset mortgage contract is an accessory contract to the main obligations, be they present or future and regardless of the type of operation or the owner of the assets.

No moveable asset mortgage can be constituted on any property whose sale, barter, lease, mortgage, pledge, or use as a guarantee is forbidden by law or is otherwise contrary to morality or public order.

Article 5. In addition to the property defined in Articles 326 and 327 of the Civil Code, a moveable asset mortgage can be constituted to pledge the guarantor's present and future obligations on the following moveable assets:

1. Rights on current and future property over which the guarantor acquires the rights after the moveable asset mortgage is constituted.
2. Rights on intellectual property, as well as equity rights derived from them.
3. Right to the payment of cash deposits, such as accounts receivable, rights on letters of credit, and any other right of a similar nature.
4. Shares, quotas, and participation in any interest in any type of commercial or civil partnership, consortium, account sharing arrangement, and rights that can be received from any constituted or informal association.
5. Ascribable moveable assets as defined in this Law.
6. Inventory and any other changing equity.
7. Any other moveable asset or asset attributable as moveable, including fungible assets, whether tangible or intangible, rights, contracts or shares to which the parties assign an economic value.

Article 6. The moveable asset mortgage may secure:

1. Meeting an obligation with a specified amount or an amount to be determined, even when the obligation is quantified based on an amount specified in a penalty clause established for failing to comply with an obligation.

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2. Capital and current and delinquent interests generated from the principal of the secured obligation.
3. Expenses incurred by the secured creditor in securing and protecting the mortgaged assets.
4. Necessary court or nonjudicial expenses incurred by the secured creditor in foreclosing on the mortgage.
5. Damages caused by the failure to comply with the secured obligation and assessed by court order, arbitration or judicial or nonjudicial settlement. However, if the damages are established in a penalty clause or any other conventional settlement of damages agreed to, they will not require the ruling of a judge or arbiter.

Article 7. The moveable asset mortgage will cover the affected moveable asset to the extent agreed to by the parties. If there is no contract, the moveable asset mortgage will cover the property and its integral and accessory parts existing at the time of the foreclosure and, if they occur, the expenses incurred in the transfer and indemnification of the contracted guarantee.

Article 8. Any legally-empowered national or foreign individual or legal entity may enter into a moveable asset mortgage contract as either creditor or debtor. The moveable asset mortgage may be constituted by the person holding the rights or powers to mortgage the property given as collateral or the right to transfer that property when signing the contract.

If the guarantor acquires the right or power to encumber the property after the contract is entered into, the rights over that property will enter into effect when the guarantor acquires the rights over that property or has the authority to encumber or transfer it, without the need to enter into a new contract.

Article 9. The owner of a moveable asset may constitute various successive mortgages on the same asset, as long as he notifies each one of the previous mortgage creditors in writing, and as long as the mortgage creditors grant their express consent in the manner contractually established.

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When the mortgage guarantor of a moveable asset is a person other than the debtor of the secured obligation, the consent of the latter will not be required.

Article 10. The moveable asset mortgage will be constituted by means a written contract entered into by the guarantor and the secured creditor.

In those cases in which this Law requires a contract to be filed with the Registry, a public deed will be required in all those cases in which the lien amount is equal to or greater than twenty thousand balboas (B/.20,000.00).

No public deed will be required in the following cases:

1. In those cases in which this Law permits the contract to be filed in a Relevant Registry without considering the amount.
2. In those cases in which the filing must be made in the Registry and the amount is under twenty thousand balboas (B/.20,000.00).

The above notwithstanding, the parties have the option to create a public deed in those cases in which one is not required.

Article 11. In those cases in which the previous article does not require filing a public deed, the Filing Form will be used. It will have the force of a sworn affidavit and must be signed by the contracting parties before a notary public who will use his authority to verify the authenticity and capacity of the parties. This Filing Form will be made in two originals, one of which will be filed with the Public Registry or the Relevant Registry and the other kept and safeguarded by the notary, who may legally transfer it according to law.

The notary must verify the legal capacity of the parties to enter into the obligation.

The Registry and Relevant Registries will regulate the forms established in this Law, in order to provide the necessary legal assurances.

The Registry and the Relevant Registries will determine the electronic filing and certification requirements for those cases brought before them, as well as the suitable transmission channels, if these filing procedures are adopted.

Article 12. In addition to any clauses the parties wish to include, the moveable asset mortgage contract must contain, as a minimum, the following:

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1. Date of execution.
2. Name and general data on the guarantor and secured creditor, such that they can be properly identified, including the domiciles of the parties and their e-mail addresses, if any, for purposes of notification in those cases where this Law permits that type of communication.
3. Description and amount of the obligations secured by the moveable asset mortgage.
4. Description of the moveable asset or assets to be mortgaged, such that they can be identified if the contract is to be foreclosed. If the moveable asset is over inventory or any other changing equity, the starting inventory will be determined generally and, additionally, the manner in which the inventory or changing equity and the guarantee may be transferred will be indicated. The moveable asset mortgage on inventory or changing equity, its constitution, its filing, its moveable asset replacement methodology, and its foreclosure will be governed by the provisions established by the parties when entering into the respective contract, so long as they do not violate the nature of this type of guarantee, or by the provisions of this Law for circumstances not covered in the contract, recognizing that it is a floating security in which the mortgaged assets change by constant removal and replacement of assets in the inventory or changing equity.
5. Express declaration that the moveable asset mortgage on the moveable asset or assets described is constituted.
6. Appointment of a representative or entity in charge of the nonjudicial foreclosure of the security, should the parties agree to this procedure and the nonjudicial procedure agreed to by the parties so determines. The representative may be unilaterally changed by the secured creditor when he deems it advisable, and the Registry or Relevant Registry will be informed by means of the Moveable Asset Mortgage Amendment Form. This form requires only the secured creditor's signature authenticated by a Notary Public.
7. Asset location. In those cases involving rolling stock, the place where the mortgaged asset is based must be indicated.

The Registry or Relevant Registry will be responsible for determining the capacity of the parties to represent the individuals or legal entities involved in the contract.

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Article 13. The moveable asset mortgage guarantor will be entitled to the rights and duties listed below:

1. The right to use the movable asset or assets placed as collateral and the ascribable moveable asset or assets in the regular course of the debtor's operations, whether they are commercial, civil, personal or of any other type. In the case of a moveable asset mortgage over inventory or changing equity, the guarantor will be entitled to dispose of the property in the normal course of his commercial business, within the limitations and under the conditions established in the respective contract.
2. The obligation to suspend the exercise of the right mentioned above when the creditor or his representative notifies the guarantor of his intention to foreclose on the moveable asset mortgage under the terms established in this Law.
3. The obligation to take care of the property given as collateral as would a good *paterfamilias*, always seeking to avoid losses and damages other than normal wear and tear to the property.
4. The obligation to permit the secured creditor or his representative to inspect the mortgaged moveable assets to verify its quantity, quality and condition.
5. The obligation to pay all taxes and expenses related to the mortgaged moveable assets.
6. The obligation to acquire an appropriate insurance policy for the mortgaged moveable assets, if agreed to in the contract.
7. The obligation to not dispose of or transfer the mortgaged moveable assets by any means without the previous written consent of the secured creditor(s). This does not apply to mortgaged inventory or changing equity, which may be exchanged according to the conditions for replacement established in the contract.
8. The obligation to not move the property outside the territory of the Republic without the prior written consent of the secured creditor(s).
9. The obligation to maintain the secured creditor informed of the location of the mortgaged moveable asset or assets at all times in the manner prescribed in the contract. Moving stock placed as collateral is excluded from this provision.
10. Any other right or duty established in current legal regulations.

Article 14. The secured creditor is entitled to:

1. Exercise all rights agreed to in the moveable asset mortgage contract and in the contract which it guarantees.
2. Unilaterally amend the appointment of the representative when he deems it convenient to his interests.
3. Sign the cancellation of the moveable asset mortgage when the secured obligations have been satisfied.
4. Any other right or duty established in current legal regulations.

Upon the guarantor's request, the secured creditor must inform third parties in writing and free of charge of the outstanding amount of the secured credit and the description of the property covered by the moveable asset guarantee. The guarantor may request this information on a quarterly basis.

Article 15. Any person may grant a moveable asset mortgage commitment on his own property or rights and over property or rights that he will acquire in the future, determining the respective term and amount. The terms and conditions of that moveable asset mortgage commitment will be governed by the contract entered into by the parties.

It is understood that in a moveable asset mortgage on future property or rights, that guarantor's future property or rights will be encumbered only from the moment the guarantor acquires them.

Chapter III

Moveable Asset Mortgage on Existing and Future Loans

Article 16. The provisions on moveable asset mortgages on existing and future loans will be applicable to factoring contracts, the purchase of accounts receivable and transfer of loans securing obligations unless otherwise agreed to in the respective contracts. As a result, unless there provisions to the contrary in the contract, in those cases in which the factoring contract, purchase of accounts receivable or transfer of loans securing obligations is entered into, it will be understood that a moveable asset mortgage is being created on the

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existing or future loans referred to in the respective contract. Similarly, all other provisions of this Law not contrary to the provisions of this Chapter will be applicable to the contractual relationship.

Article 17. A guarantor may grant a moveable asset mortgage for securing its obligations on any type of loan with third parties, for which the provisions in this Law will be applicable.

Article 18. The moveable asset mortgage on loans will take effect on the guarantor and secured creditor at the time the contract is constituted.

The moveable asset mortgage will be valid on existing loans, future loans, a part of a loan or a *pro indiviso* right on a loan, as long as they are described or are identifiable as subject to the guarantee.

Although a moveable asset mortgage on loans may not require filing, it must be filed in the Registry if the parties wish it to be enforceable against third parties.

Article 19. In the case of future loans, the identification must be made when entering into the moveable asset mortgage contract.

When the parties agree to a moveable asset mortgage on a series of future credits, additional contracts for each loan are not necessary unless otherwise agreed to. In this case, the parties may agree on how the moveable asset mortgage on those credits will be considered constituted.

Article 20. The moveable asset mortgage on existing or future loans will not require filing in the Registry as long as the account debtor is notified within thirty days following the constitution of the moveable asset mortgage contract. If the parties choose to file the moveable asset mortgage mentioned in this Law in the Registry, it will not be necessary to notify the account debtor. The notification to this debtor must be made by any written means generally accepted, including ordinary mail, fax, e-mail, letter or any other similar means, unless the moveable asset mortgage contract establishes a specific notification method for transferring or mortgaging the loan.

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In any case, the notification must identify the loan and include sufficient payment instructions for the secured loan debtor to honor his obligation.

Unless otherwise agreed to, the guarantor will notify the account debtor, providing evidence to the secured creditor that he made the relevant notification under the conditions and terms established in this article. The account debtor may request proof of the mortgage on the credit. Once the request has been made, the account debtor may continue to pay the guarantor until proof is provided.

Article 21. When there is more than one moveable asset mortgage on the same loan and the account debtor receives more than one notification under the provisions of this Chapter, the account debtor must pay in accordance with the instructions included in the first notification received. This does not obviate the shares, rights or exceptions belonging to other secured creditors against the first executor based on the order of priority.

Article 22. If the account debtor fails to comply, the secured creditor can collect the amounts owed directly from the debtor of the obligation secured by the moveable asset mortgage. If the debtor pays off the obligations to the secured creditor, the latter will release the mortgage on the loans referred to in this Chapter.

Article 23. The moveable asset mortgage on existing or future loans will be constituted either secured or unsecured.

In a secured moveable asset mortgage, if the account debtor fails to comply, the secured creditor is entitled to demand compliance from his own debtor and may pursue other property belonging to that debtor to collect the main obligation. This entitlement does not preclude exercise of the right that the secured creditor has to pursue other property belonging to the account debtor in collecting on the credit.

In an unsecured moveable asset mortgage, if the account debtor fails to comply, the secured creditor may only pursue other property of the account debtor to collect the main obligation and shall not be entitled to pursue other property of his own debtor. In this case, the creditor will lose the right to collect the outstanding amounts from his debtor and shall release the property when the term of the obligation is reached.

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Whether the moveable asset mortgage on existing or future loans is secured or unsecured will be specified in the respective contract.

Article 24. The moveable asset mortgage shall take effect between guarantor and secured creditor, as well as the account debtor, without precluding the existence of any other contract limiting the guarantor's or grantor's right to transfer, encumber or cede the loan.

The provisions in this Article do not exempt the account debtor from his responsibility to the guarantor for damages from non-compliance with the contract.

Merely being aware of the existence of the aforementioned contract does not impose any responsibility on the secured creditor.

The moveable asset mortgage contract can contain a limitation precluding the new creditor from further transferring the loan.

Article 25. A moveable asset mortgage on existing and future loans will not modify the underlying legal relationship, nor may the obligations of the account debtor be made more onerous without the consent of the latter.

However, the name of the person, the address or account to which the account debtor must make the payment may be changed in the payment instructions as long as the provisions of this Law are met.

Article 26. The secured creditor of an existing or future loan shall have no responsibility to the account debtor emanating from the circumstances in the origination of the mortgaged credit.

Consequently, any guarantee, claim, complaint, action or any other situation arising with respect to the goods and services that originated the existence of the mortgaged credit will continue to be managed within the legal relationship existing between the guarantor and the account debtor.

Article 27. From the moment the account debtor is notified of the constitution of the moveable asset mortgage on existing or future loans, he must make all payments for the loan to whomever the secured creditor appoints. If, for any reason, after the moveable asset

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mortgage contract on existing or future loans is finalized, the guarantor receives any payment from the account debtor, he must remit it to the secured creditor within no more than forty-eight hours.

Article 28. Unless otherwise agreed to in a document to which the account debtor is a party, he may enforce against the secured creditor, all exceptions arising from the original contract or any other contract that is a part of the same transaction that the account debtor could have enforced against the guarantor.

The account debtor may enforce against the secured creditor, any right to compensation as long as the right to compensation existed at the time he received notification.

Article 29. Obligations other than the payment of an amount of money may be encumbered with a moveable asset mortgage. In this case, the rules on constitution, enforcement, priority, and foreclosure established in this Law and applicable to them must be met. In these cases, the secured creditor may require that the account debtor comply with the obligation to the secured debtor's benefit, to the extent possible according to the nature of the obligation.

Article 30. The beneficiary may constitute a moveable asset mortgage on the funds of a documentary credit or letter of credit, once these are presented for payment in compliance with the requirements of the letter of credit and the issuing or confirming bank accepts the mortgage of the moveable asset. For the purposes of enforcement, the mortgage will be considered executable against the issuing or confirming bank and third parties as of the date and time in which the former or the latter accepts the terms and conditions for paying the letter of credit and it is filed in the Registry.

Chapter IV Enforcement and Filing

Article 31. A moveable asset mortgage may be enforced against third parties by its being filed in the Registry or Relevant Registry, as may be the case.

Article 32. A moveable asset mortgage will be constituted when it is filed in the Registry or Relevant Registry, as the case may be. This will be done by means of a single form signed by the parties, debtor, secured creditor and guarantor (if other than the debtor) or by means of a public deed in those cases where this Law so requires in its Articles 10 and 11, and will contain the following information:

1. Name and general data of all parties, including the address of the parties and their e-mail addresses, if any, for notification in those cases in which this Law permits that kind of notification.
2. Amount of the secured obligation.
3. Date of the moveable asset mortgage contract originating the filing form.
4. Description and nature of the secured obligation.
5. Term of the secured obligation, including potential extensions.
6. Description of the moveable assets on which the mortgage is constituted.
7. Statement expressly constituting the mortgage on the described moveable assets.
8. Name and general data of the representative or entity in charge of the nonjudicial foreclosure of the pledge if the parties have agreed to a nonjudicial settlement and they have determined that the foreclosure will be conducted by a representative as established in this Law.
9. Location of the mortgaged movable asset or assets. The main location of moving stock must be indicated.
10. Proof of the express acceptance by the parties.

Article 33. The moveable asset mortgage contract will be a private document, except in those cases where a public deed is required. When the contract is entered into by means of a private document, the filing form referred to in this Law will be registered. The contract

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shall have all additional clauses the parties wish to include in their legal relationship. The public deed or filing form will require only the information stated in the previous article and the acceptance by the parties.

The moveable asset mortgage contract will be enforceable provided that the requirements in Articles 11 and 12 of this Law have been met and the requirements for foreclosure in Article 1614 of the Judicial Code or in the public deed, where this Law requires one, have also been met.

The signed and authenticated contract, as stated in this Article, along with the certification of the Registry or Relevant Registry on the filing of the moveable asset mortgage, will satisfy the requirement in Article 1734 of the Judicial Code for a public deed in those cases where the Law does not require one.

Article 34. All moveable asset mortgages on property or rights whose ownership or entitlement are not subject to the Relevant Registry according to the legal rules regulating that property or rights, will be filed in the Registry.

The moveable asset mortgage on property or rights whose ownership or entitlement is subject to the Relevant Registry according to the legal rules regulating it, will be filed in the same Relevant Registry in which the ownership or title rights on those properties or rights are filed.

Filing a moveable asset mortgage in the Relevant Registry will be made using the filing form, regardless of the value of the moveable asset, except in those cases in which the parties have agreed to enter into the contract by means of a public deed.

Similarly, the amendments and total or partial releases of moveable asset mortgages, as may be the case, must be filed with the Registry or Relevant Registry.

Article 35. Any moveable asset mortgage contract may be amended as the parties agree, as long as the amendment is made with the same formalities of the original contract. In the case of mortgages filed using the filing form, the amendment must be made using the amendment form, which must be signed with the same formalities established in Article 11 and must contain the following:

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1. Name and general data of all parties, including the address of the parties and their e-mail addresses, if any, for notification in those cases in which this Law permits that kind of notification.
2. Description of the moveable asset mortgage being amended.
3. Date on which the moveable asset mortgage contract is being amended.
4. Description of the agreed amendment.
5. Proof of the express acceptance by the parties.

Article 36. Both the Registry and the Relevant Registry must be able to tell any duly identified person whether or not a moveable asset or right has been mortgaged.

Article 37. The total or partial release of a moveable asset mortgage must be registered in the Registry or Relevant Registry. This total or partial release of the moveable asset mortgage will be made with the same formality with which the moveable asset mortgage was constituted. In the case of a mortgage constituted by means of the filing form, the total or partial release will be made using the cancellation form, which must be signed only by the secured creditor, but with the same formalities established in Article 11, and must contain the following:

1. Date of total or partial release.
2. Filing information for the moveable asset mortgage being released.
3. Indication of whether the release is total or partial. In the case of a partial release, the moveable asset or assets being released must be specified.
4. Express declaration by the secured creditor on his willingness to totally or partially release the moveable asset mortgage.

Article 38. The registration rights must be those that are reasonable for covering the Registry's administrative expenses, taking into account that the purpose of a moveable asset mortgage is to promote access to credit for micro and small companies, reducing, to the extent possible, the excessive formalities and requirements for concluding the guarantee. Mortgages being filed in the Registry will pay that entity's current rates.

Article 39. A moveable asset mortgage may be constituted on industrial property and patrimonial rights arising from copyright. For industrial property, the moveable asset mortgage will be filed in the Relevant Registry indicated in the Law that governs that matter.

Article 40. A pledge may be converted to a moveable asset mortgage without losing its priority by surrendering the property or rights to the debtor and filing the mortgage with the Registry or Relevant Registry. Similarly, a moveable asset mortgage may be converted to a pledge without losing its priority by surrendering the property or right to the creditor and cancelling the moveable asset mortgage with the Registry or Relevant Registry.

Chapter V Priority Rules

Article 41. The priority of a moveable asset mortgage constituted pursuant to this Law, including that of the derivative or ascribable property, is determined at the time it is filed with the Registry or Relevant Registry, as the case may be.

The moveable asset mortgage that is enforceable due to its having been filed in the Registry or Relevant Registry will have priority over a guarantee that was not filed, regardless of the moveable asset contract date or its notarial authentication.

Of the moveable asset mortgages not filed with the Registry or Relevant Registry and not required to be filed there by this Law, the mortgage with the earliest notarial authentication date will have priority.

Article 42. Regarding other rights, the moveable asset mortgage will have the same order of precedence established for pledges in Paragraph 2 of Article 1660 of the Civil Code. In the case of the guarantor's insolvency, the secured creditor of a moveable asset mortgage duly filed with the Registry or Relevant Registry will take precedence over any other creditor up to the moveable asset's value.

The priority ascribed to a moveable asset mortgage will be extended to all collateral property included in the filing form or in the public deed, as may be the case, regardless of whether the guarantor acquired those properties before or after the guarantee was granted.

Chapter VI Foreclosure

Article 43. The moveable asset mortgage will be foreclosed in court in accordance with the rules established in this Law or nonjudicially if the parties have agreed to this foreclosure mechanism.

Notwithstanding the above, in those cases in which the parties have agreed that the secured creditor may proceed with the nonjudicial foreclosure of the moveable asset mortgage, the secured creditor may choose a court-run process for the collection and recovery of the obligation.

Article 44. In the event of any non-compliance with the contract containing an obligation secured with a moveable asset mortgage, the secured creditor may start a nonjudicial court foreclosure of the moveable asset mortgage as prescribed in this Chapter if the text of the mortgage contract or another document stipulates that the secured creditor, the guarantor and the debtor (if other than the guarantor) have mutually agreed to this procedure.

Article 45. To conduct a nonjudicial foreclosure, the parties must have agreed to that procedure in the moveable asset mortgage contract.

Article 46. If the parties have agreed to a nonjudicial foreclosure in the contract, a representative or entity responsible for conducting the foreclosure notifications must be appointed. Notaries; conciliation, mediation and/or arbitration centers authorized by law; lawyers and/or law firms may act as these representatives.

Article 47. The nonjudicial foreclosure will be processed in accordance with the following special provisions:

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1. The secured creditor will start the nonjudicial foreclosure by submitting the foreclosure form to the Registry or Relevant Registry after the debtor fails to comply with the obligation. The Registry or Relevant Registry will make a simple notation designed to notify third parties that the foreclosure has begun.

Once the foreclosure form has been annotated, the creditor will request the appointed representative send a notice to the debtor and guarantor (if they are different persons) including a copy of the notation on the foreclosure form, to the addresses designated for notifications in the corresponding loan and moveable asset mortgage contracts, as may be the case. This may be an e-mail address if it was so agreed.

Once the foreclosure form is received, the Registry or Relevant Registry will make a marginal notation in the moveable asset mortgage registration, such that interested third parties may become aware of the commencement of the nonjudicial foreclosure.

Notwithstanding the notification that must be made by the appointed representative, the secured creditor may directly inform the guarantor and debtor (if they are different persons) of the foreclosure, if the parties have previously agreed to this notification.

2. The secured creditor will send a copy of the foreclosure form to the other secured creditors that are registered, if any, at the address included in the respective moveable asset filing form of that creditor, so they may appear to exercise their rights in the nonjudicial foreclosure or start a judicial foreclosure.
3. The foreclosure form must contain:
 - a. The filing number of the moveable asset mortgage filing form.
 - b. Identification of the guarantor and debtor (if they are different persons) to whom the foreclosure notice is addressed.
 - c. Identification of the secured creditor that intends to foreclose.
 - d. A brief description of the debtor's non-compliance and the description of the mortgaged moveable assets on which the creditor intends to foreclose, indicating what the unfulfilled obligation is and the outstanding amount.

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- e. The contract signed by the debtor, the guarantor (if he is a different person) and the secured creditor must be attached.

Article 48. Once the notification form is received by the debtor and guarantor (if they are different persons) they may choose to surrender the mortgaged property to the secured creditor or challenge the foreclosure, in which case the procedure foreseen in this Law will be followed.

If the guarantor willingly surrenders the property to the secured creditor, the guarantor will be entitled to require the secured creditor provide the difference between the value of the property and the balance of the obligation at that time.

If the guarantor exercises the right established in this Article, the property value will be determined in accordance with the appraisal made by an expert appointed jointly by the parties in the contract or in a subsequent agreement.

Article 49. Opposition to the nonjudicial foreclosure can only be based on:

1. Payment. Only the type of proof permitted by Law is admissible for this exception. The testimony of witnesses is insufficient to demonstrate payment. This exception applies only to full payment. Partial payment is insufficient.
2. Prescription. Only the type of proof permitted by Law is admissible for this exception. The testimony of witnesses is insufficient to demonstrate payment.
3. False signature on the moveable asset mortgage contract or the filing form or alteration of the text of the contract containing the main obligation or the moveable asset mortgage contract or its registration.

Article 50. Any opposition to the nonjudicial foreclosure of the moveable asset will be processed as follows:

1. The opposition should be made in writing, before the competent municipal or circuit judge depending on the amount, within eight business days following the notification of the filing of the moveable asset mortgage foreclosure form, along with all of the documentary evidence that the opponent intends to provide, as well as evidence of receipt of the notification. The creditor will have three days to

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respond. The accredited judge will immediately resolve the issue as a single-instance judge, based on the existing evidence and within an unalterable period of five business days. If there is any investigation or examination to be conducted, the judge should immediately order it and the period of decision would commence when it is completed.

2. If the judge rules against the opposition, he will order the foreclosure to continue by means of a declaratory judgment, ordering the seizure of the property, its surrender to the secured creditor and the creditor's direct sale of the property. If the judge rules for the opposition, he will stop the foreclosure, notify the opponent and the appointed representative and order notification of the Registry or Relevant Registry where the foreclosure form was filed, in order to file the form for the cessation of the foreclosure.

The guarantor may propose any other objection as long as it is made after the moveable asset foreclosure process is completed, by means of an ordinary declaratory process. Similarly, the guarantor may bring an ordinary complaint against the secured creditor if the guarantor was harmed by any non-compliance with the nonjudicial foreclosure process.

Article 51. When it is not possible to comply with the agreed nonjudicial foreclosure procedure and after the time stipulated in this Law has passed without *reclama* or such opposition is adjudicated, the secured creditor may request the competent jurisdictional authority on duty provide an order of seizure and surrender of the property, as well as an authorization for direct sale by the secured creditor. The resolution to be issued under this article cannot be appealed.

The judge must send the Registry or Relevant Registry an authenticated copy of the resolution of seizure in order to prevent successive mortgages on the property subject to the seizure being filed after the order is received.

According to the order, the mortgaged property may be surrendered to the secured creditor or a third party upon the secured creditor's request.

The secured creditor may take the mortgaged property as payment for the appraised value established in Article 48.

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Article 52. The proceeds of the sale of mortgage property will be applied as follows:

1. To meet the expenses of foreclosure, deposit, repairs, insurance, preservation, sale, or auction and any other expenses, including any taxes on the property incurred by the secured creditor.
2. To pay the secured obligations of the creditors that were summoned to enforce their rights, pursuant to the priority established in this Law.
3. The remainder, if any, will be given to the guarantor.

If the balance due exceeds the value of the sale or acquisition in the case of a direct sale by the secured creditor, the latter is entitled to demand the debtor pay the difference.

Article 53. At any time before the secured creditor disposes of the mortgaged property, the debtor or guarantor, or any other interested party, is entitled to request the cessation of the foreclosure, paying the total amount owed to the secured creditor plus the expenses incurred in the foreclosure process. If the total amount owed is paid off, the secured creditor is required to send the Registry or Relevant Registry the settlement of liens, which will be made under the same formalities with which the original contract was filed.

Article 54. In any case, the debtor and guarantor continue to enjoy the right to claim damages for the secured creditor's failure to comply with the provisions of this Law or his abuse of the rights granted him by law.

Article 55. If the nonjudicial foreclosure does not proceed, or if, despite proceeding, the secured creditor opts for a judicial foreclosure, the guarantee for the mortgage foreclosure process established in the Judicial Code will enter into effect, but with the following special provisions:

1. The foreclosure must be conducted against the guarantor and the debtor if the latter is other than the guarantor.
2. The debtor or guarantor, as the case may be, will be entitled to only the following exceptions:

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- a. Payment. The types of proof permitted by law are admissible for this exception, as long as they are submitted within the period for submittal of exceptions established in the Judicial Code. The testimony of witnesses is insufficient to demonstrate payment. If the payment exception is claimed after the period for exceptions established in the Judicial Code has expired, only documentary evidence submitted with the claim to be processed is admissible. The payment exception requires full, and not partial, payment.
- b. Prescription. Only documentary evidence submitted with the claim to be processed is admissible for this exception.
- c. False signature on the moveable asset contract or the filing form or alteration of the text of the contract containing the main obligation or the moveable asset mortgage contract or its registration.

The payment exception may be made effective at any time during the process prior to the property being transferred. The other two exceptions may only be made effective within the period established by the Judicial Code. After that, they will be summarily rejected.

3. If the guarantor or debtor does not claim exceptions within the established term, the secured creditor may request the transference of ownership of the mortgaged property for the value of the appraisal determined by the expert appointed by the Court up to the value of the loan. If there is a surplus, the secured creditor must remit the amount, which will be given to the debtor of the obligation secured by the moveable asset mortgage.

For the purposes of Article 1734 of the Judicial Code, in order to judicially foreclose on the moveable asset mortgage, the plaintiff must submit the moveable asset mortgage contract to the competent judge, duly authenticated by notary, and the filing form in the Registry or Relevant Registry or the public deed, as may be the case, as well as the certification of the Registry or Relevant Registry that the mortgage has been filed and is current, in addition to other requirements established by the Judicial Code.

Article 56. Any subordinate secured creditor may be subrogated to the rights of a senior secured creditor paying the amount of the secured obligation owed to that creditor.

Article 57. When all obligations secured by a moveable asset mortgage have been met or the foreclosure is completed to the satisfaction of the debtor and guarantor or after the transfer or seizure of the mortgaged property, the secured creditor of these obligations is obligated to cancel the file record of the moveable asset mortgage.

If the secured creditor fails to comply with that obligation within the thirty business days following the request, the guarantor may submit a request to cancel the registration before a notary, along with a certification issued by the secured creditor indicating the full cancellation of the obligation guaranteed with the moveable asset mortgage or the resolution that upheld the opposition to the foreclosure of the property or the transfer of the assets in accordance with this Chapter. For these purposes, the cancellation form will be used for filing with the Registry or Relevant Registry.

If the original filing was made by public deed, the cancelation must be granted by public deed. If the secured creditor refuses to grant it after the agreed obligations have been met, the guarantor will be entitled to request its judicial cancelation as established by Law.

Chapter VII Penalties

Article 58. The debtor or guarantor (if they are different persons) who transfers the mortgaged moveable asset or hides it or moves it abroad without the prior written consent of the secured creditor(s) will incur in the crime of misappropriation, for which the affected party must file the corresponding complaint. The transfer of inventory or changing equity property on which a moveable asset mortgage is constituted is excepted from this provision.

The assigned investigating official must notify the Registry or Relevant Registry of the complaint so they may make the annotations of the case.

Chapter VII Additional Provisions

Article 59. Article 20 of Decree Law 2 of 1955 shall read:

Article 20. For the purposes of this Decree Law, Debtor is understood to include the buyer purchasing contracts with title retention, and Creditor is understood to include the seller in these contracts.

Article 60. Article 21 of Decree Law 2 of 1955 shall read:

Article 21. Purchase contracts with title retention must be made by public deed when the amount of the note from the sale-purchase, as the case may be, is four thousand balboas (B/.4,000.00) or more. In places lacking the seat of a Notarial Circuit, the deed will be granted before the Secretary of the Municipal Council. If the amount is less than the cited quantity, a public deed is not required, but the signature of all grantors must be affixed or recognized before a notary public or police authority, who must attest to the signatures. However, in sales with title retention, when the note is under five hundred balboas (B/.500.00) and the seller is a duly established businessman, the contract may be entered into by private document without an authentication, but the document must certify the filing of the seller's commercial or industrial registration.

The cancellation, in each case, will be subject to the same formalities required by the contract granted.

Article 61. Article 22 of Decree Law 2 of 1955 shall read:

Article 22. In sales contracts with title retention, the debtor keeping the property will use it without undermining its value and will be required to maintain it in good condition and in condition to provide an efficient service.

Article 62. Article 23 of Decree Law 2 of 1955 shall read:

Article 23. No property given under a sales contract with title retention will be transferred or removed from the limits of the province in which it is located when

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the relevant contract is granted without the prior consent of the creditor. This consent will be noted in the relevant contract or in a separate document. Rolling stock may travel between provinces as long as it is not permanently transferred.

Proviso. For sales of motor vehicles with title retention and upon request of an interested party, municipal treasurers will certify the status of the vehicles with respect to licensing and license plates.

Article 63. Article 24 of Decree Law 2 of 1955 shall read:

Article 24. The sales contract with title retention is consummated when granted, but to be enforceable against third parties it must be filed with the Public Registry of Panama.

Article 64. Article 25 of Decree Law 2 of 1955 shall read:

Article 25. The filing of sales contracts with title retention will be made with the names of the parties; the amount of the loan or the outstanding balance owed by the buyer, as the case may be; the term of the contract and interest rate; the payment method; the description of the property that is the object of the contract, indicating its value and the province or place where it will be located.

When the filing is verified by public deed, such a deed will be identified. In other cases, a copy of the contract will be attached, authenticated or unauthenticated in accordance with Article 21, and filed with the Registry for reference.

Article 65. Article 27 of Decree Law 2 of 1955 shall read:

Article 27. In sales contracts with title retention, the seller is entitled to recover the ownership of the property in cases of delinquency when the delinquent buyer has not paid more than half of the price. When the delinquent buyer has paid more than half of the price, the creditor may only ask for the sale of the property to pay the credit with its proceeds.

Article 66. Article 28 of Decree Law 2 of 1955 shall read:

Article 28. In sales contracts with title retention, the buyer is considered delinquent:

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1. When the debtor stops making agreed payments before having paid half of the price or loan, as the case may be. But when the buyer has paid at least half of it, it will be considered in arrears if he misses two agreed payments as of the agreed payment dates or when he misses the last payment.
2. When the buyer stops fulfilling any of his other obligations on time, assuming the affirmations made by the seller are accurate regarding the unfulfilled obligation.

Article 67. Article 29 of Decree Law 2 of 1955 shall read:

Article 29. In the case of purchase contracts with title retention, once a legal claim has been filed along with the necessary evidence, the court, at the actor's request, will order the seizure of the property and will temporarily place it under the seller's control. The Public Registry will be notified of this action so it can make the marginal notation.

Article 68. Article 30 of Decree Law 2 of 1955 shall read:

Article 30. In the case of sales with title retention, the court can rely on the National Police in effecting the delivery.

Article 69. Article 31 of Decree Law 2 of 1955 shall read:

Article 31. In the case of foreclosures of sales with title retention, after the bailment is made, the buyer will be notified, if he can be found, and a copy of the complaint will be delivered to him. If the notification cannot be made within five days following the bailment, the court will send a copy of the complaint and the action by certified or express mail to the last known address, as stated by the seller.

Article 70. Article 32 of Decree Law 2 of 1955 shall read:

Article 32. In cases of foreclosures of sales with title retention, the buyer can stop the procedure by meeting all of his delinquent obligations and paying the costs and expenses of the foreclosure and the interest on the amounts owed, if any, within ten days following personal notification of the date the documents were mailed.

Article 71. Article 33 of Decree Law 2 of 1955 shall read:

Article 33. In cases of foreclosures of sales with title retention, if the buyer dies before being notified of the claim, the court, after confirming the death, will appoint a caretaker *ad litem* with whom the process will continue until the representative of the succession appears.

Article 72. Article 34 of Decree Law 2 of 1955 shall read:

Article 34. In cases of foreclosures of sales with title retention, if the buyer has paid at least half of the price, the court will rule that the property has been sold and cancel the foreclosure process, with there being a sole auction with a minimum bid equivalent to the amount owed plus costs and expenses. Lacking a bidder for this amount, the property will be awarded to the creditor and the obligations of the parties will be declared extinguished, unless the creditor chooses the provisions of Article 36.

Article 73. Article 35 of Decree Law 2 of 1955 shall read:

Article 35. In cases of foreclosures of sales with title retention, if the amount paid is less than half of the price, the property will be awarded to the seller with the subsequent extinction of all of the buyer's obligations, except that:

Within ten days following the notification of the claim, the buyer may demand that the property be sold, depositing an appropriate amount for the expenses of the sale with his request and guaranteeing, to the satisfaction of the court, the payment of the amount owed to the seller should the sale not cover the debt. After the sale is made and the seller is paid, any surplus will be returned to the buyer.

Article 74. Article 36 of Decree Law 2 of 1955 shall read:

Article 36. In the cases mentioned in the previous two articles, the seller has the option of demanding the property named in the contract be sold according to the legal foreclosure process and continue foreclosure proceedings against the debtor if the proceeds of the sale is insufficient to cover his credit, interests, and costs.

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Article 75. Article 37 of Decree Law 2 of 1955 shall read:

Article 37. Third party interventions, exceptions or defenses other than those expressly stated in this Section are not admissible in foreclosures of sales with title retention, but the buyer may bring an ordinary suit against the seller if he suffered any damages due to the seller's not complying with the proceedings for the sale or recovery of property ownership.

Article 76. Article 38 of Decree Law 2 of 1955 shall read:

Article 38. In cases of sales with title retention, if a complaint is made to the proper law enforcement agency that, within its jurisdiction, there are properties sold with title retention that are going to be moved, hidden, sold, or encumbered in violation of the relevant contract, the officer will investigate the actions or intentions, seize the property and put it at the disposal of the competent judge. The seller is required to register the relevant complaint within three days following the day the property was received by the judge. Otherwise, the law enforcement officer will return the property to the person from whom it was seized.

Article 77. Article 39 of Decree Law 2 of 1955 shall read:

Article 39. In cases of sales with title retention, when the buyer's obligations have been met, even if done so prior to the term agreed to, the seller will be required to issue the document transferring the title following the same formalities used for the main contract. Failing this, the debtor may verify the payment by consignment. Once the judge accepts this, he will instruct the clerk of court to issue the relevant document and will attach a copy of the court's decision. That document will have the same legal validity as if it had been issued by the seller.

Article 78. Article 50 of Decree Law 2 of 1955 shall read:

Article 50. The person controlling a property delivered under a sales contract with title retention who destroys, mutilates or permits the deterioration of the property for

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want of care, incurs in a crime against property and will be subject to the sanctions established by law.

Article 79. Article 51 of Decree Law 2 of 1955 shall read:

Article 51. The person who encumbers or in any other way disposes of a property delivered as provided in the above article will incur in the crime of misappropriation and will be subject to the sanctions established by law.

Article 80. Article 52 of Decree Law 2 of 1955 shall read:

Article 52. The person who agrees to the sale of the property knowing that he is not the owner or lacks the legal capacity to do so and thereby causes damages to the property will incur in the crime of fraud and will be subject to the sanctions established by law.

Chapter IX Final Provisions

Article 81. This Law amends Articles 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 50, 51, and 52 and rescinds Articles 2, 3, 4, 5, 6, and 7 of Decree Law 2 dated 24 May 1955.

Article 82. This Law shall take effect the day after its promulgation.

FOR COMMUNICATION AND ENFORCEMENT.

Bill 687 of 2013 approved at the third reading in Palacio Justo Arosemena, Panama City, on the eighteenth (18th) day of December, two thousand thirteen (2013).

The President,

[Signed]
Sergio R. Galvez Evers

TRANSLATION

The Secretary General,

[Signed]
Wigberto E. Quintero G.

NATIONAL EXECUTIVE BRANCH. PRESIDENCY OF THE REPUBLIC.
PANAMA, REPUBLIC OF PANAMA, 31 DECEMBER 2013.

[Signed]
RICARDO MARTINELLI BERROCAL
President of the Republic

[Signed]
LUIS EDUARDO CAMACHO G.
Minister of Commerce and Industry, *ad interim*