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# Encumbrance of a property with a mortgage or land charge, creation of the lien on the property

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<https://fimportal.de/xzufi-services/6000566/L100009>

Modul	Sachverhalt
Leistungsschlüssel	99043009060000
Leistungsbezeichnung I	Encumbrance of a property with a mortgage or land charge, creation of the lien on the property
Leistungsbezeichnung II	Encumbrance of a property with a mortgage or land charge, creation of the lien on the property
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Sachsen
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	
Leistungsgruppierung	
Verrichtungskennung	

Modul	Sachverhalt
SDG-Informationsbereich	
Lagen Portalverbund	
Einheitlicher Ansprechpartner	
Fachlich freigegeben am	
Fachlich freigegeben durch	
Handlungsgrundlage	<ul style="list-style-type: none"> <li>• § 873 Bürgerliches Gesetzbuch (BGB) – Erwerb durch Einigung und Eintragung</li> <li>• §§ 1113 ff. BGB – Hypothek</li> <li>• §§ 1191 ff. BGB – Grundschild</li> </ul>
Teaser	<p>Mortgage and land charge are among the liens on real property. They usually serve to secure loans by enabling the holders of the mortgages to recover sums of money from the property if necessary.</p>
Volltext	<p>Mortgage and land charge are among the liens on real property. They usually serve to secure loans by enabling the holders of the mortgages to recover sums of money from the property if necessary.</p> <p>Note: Numerous individual cases are conceivable. Individual advice is therefore essential.</p> <p>Land charge or mortgage?</p> <p>In practice, the land charge has prevailed over the mortgage, because the mortgage secures a specific claim (a specific loan), whereas the land charge can be used as collateral as often as desired, also for new loans, but only up to the registered amount of the land charge.</p> <p>The security agreement</p> <p>The owner and a bank granting a loan therefore regulate in another contract (the so-called security agreement, also known as declaration of purpose) which claims are secured by the land charge. Before signing a security agreement, you should inform yourself about its exact scope and, if necessary, seek</p>

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	<p>legal advice. As a rule, the security agreement will also provide details on the type of restitution.</p> <p>Entry in the land register</p> <p>Liens on real property must be entered in the land register. The security right over real property is usually created at a notary's office. The declarations required for the registration, assignment or cancellation of a security right over real property are made there. The notary prepares the documents, explains the often quite complicated clauses and ensures the correct entry in the land register.</p>
Erforderliche Unterlagen	<ul style="list-style-type: none"> <li>• varies (depending on the individual case)</li> </ul> <p>Ask your notary or the local court (Grundbuchamt) which documents you need.</p>
Voraussetzungen	varies depending on the case
Kosten	Fees vary depending on the individual case. Find out from your notary or the local court (land registry) what costs you should expect.
Verfahrensablauf	<ul style="list-style-type: none"> <li>• varies (depending on the individual case)</li> </ul>
Bearbeitungsdauer	
Frist	none
weiterführende Informationen	
Hinweise	<ul style="list-style-type: none"> <li>• Under certain circumstances, the bank does not need to sue the property owner in court for acquiescence in the foreclosure.</li> <li>• This is the case if the property owner has submitted to immediate compulsory execution in a notarial deed in such a way that compulsory execution from the deed is to be permissible against the respective owner of the property and this submission is also entered in the land register.</li> <li>• Such a declaration of submission can be found in the forms for land charges. However, if the creditor enforces unjustly, the owner naturally has legal</li> </ul>

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	recourse to defend himself.
Rechtsbehelf	non applicable
Kurztext	
Ansprechpunkt	
Zuständige Stelle	
Formulare	
Ursprungsportal	