

2. Pre-Disbursement

2.1 Completion of documentation

Documents pertaining to the letter of offer are to be executed by the borrower, the FI's power of attorney holders and guarantors and others, if appropriate and stamped and registered where applicable.

The lender has the duty to prepare the documentation. The lender usually relies on the solicitor to draw a standardised framework for the documents that comply with all applicable regulations. All costs and legal fees relating to preparing the documents are borne by the borrower. The bank's policy manual often contains a document checklist as a reference source for lenders to comply with.

Possible documents required by financial institutions:

(a) Property taken as security

(i) Deed of Charge (This document is taken when the property is issued with a title deed)

- Stamped at the stamping office and registered at the respective land office.
- Original title deed to be in possession of the FI.
- Verification that the latest quit rent and land assessment have been paid.

(ii) Memorandum of Transfer

For the transfer to be registered, the land has to be adjudicated. This is to determine the value of the land by the land office and thereafter determine the stamp duty payable on the adjudicated amount. *Ad valorem* stamp duty is payable on the principal documents and that on all other documents is nominal.

The documents must be stamped at the stamping office as per the adjudicated amount determined by the land office.

(iii) Loan Agreement Cum Assignment (LACA) (This document is taken when the property has not been issued with a title deed)

- The document is to be stamped on an *ad valorem* basis at the stamping office.
- The LACA is endorsed by the developer as a consent to the assignment as this is a requirement specified in the original sale and purchase agreement for properties not regulated under the Housing Developers Act (HDA) while properties regulated under the HDA no longer require consent. The LACA may include a section under which the developer will provide the usual undertakings to the financier. This is to prevent the developer from dealing in the same piece of property when the title of the property is issued.
- Original copy of the sale and purchase agreement.

Amended text



(iv) Power of attorney (PA)

- This is to enable the FI to perfect the charge upon issuance of the title.
- A PA is stamped and presented for registration at the High Court. In some cases, the document is prepared separately or incorporated in other documents such as the LACA.
- The document is to be stamped for a nominal sum.

(v) Lien holder's caveat

(only for the situation where the title has been issued and where owner of property is also the borrower)

- This will prevent any further dealings with the land or property without the lien holder's knowledge.
- This document (Form 19D) is to be presented for registration.
- The document need not be stamped.

Amended text



(vi) Letters of Undertaking

- (a) From developer (where title is applicable)
To refund all loan monies to the FI in the event of:
- Non-registration at the land office for any reason whatsoever.
 - Abandonment and suspension of project.
 - Non-issuance of Certificate of Fitness for the property.