

Mortgage Certificates Register Act (SFS 1994:448)

(with amendments up to and including SFS 2006:719)

Introductory provisions

Section 1. The National Land Survey (the Authority) shall keep a special register (Mortgage Certificates Register) of mortgages of real property or site leasehold for which no written mortgage certificate has been issued.

It follows from Chap. 6, Section 1 of the Land Code that registration of a mortgage in the Mortgage Certificates Register entail the issue of a digital mortgage certificate.

Section 2. The Mortgage Certificates Register shall be kept with the aid of automatic processing.

Section 3. The Mortgage Certificates Register may be used for the following purposes:

1. for registration of mortgages and mortgage certificate holders pursuant to this Act,
2. as a basis of decisions which may be made pursuant to this Act, and
3. as a basis for notification of registered mortgage certificate holders and those who, under Section 4, are to be deemed mortgage certificate holders, concerning
 - (a) the contents of the general part of the Real Property Register,
 - (b) tax assessment values and other particulars established in connection with real property tax assessment,
 - (c) postal addresses of property owners and site lessees.

General provisions on registration

Section 4. In order for a mortgage to be eligible for entry in the Mortgage Certificates Register, it must be entered in the land register section of the Real Property Register and a request for registration must have been made as provided in Section 5 or 6.

A mortgage entry in the mortgage certificates register may be combined with an entry identifying the party having right of disposition over the registration (the mortgage certificate holder). Only the party having precedence under Section 14 may be registered as mortgage certificate holder. If the register contains no entry concerning the mortgage certificate holder, the party last granted registration of ownership of the property shall be deemed mortgage certificate holder. If the mortgage concerns site leasehold, it is instead the party being site lessee according to the land register section of the Real Property Register who shall be deemed mortgage certificate holder.

If a mortgage has been the subject of a decision concerning exchange pursuant to Chap. 22, Section 8 of the Land Code, the provisions of this Act concerning mortgage shall instead apply to the mortgage certificates resolved on through the exchange.

Registration of new mortgages

Section 5. On the party submitting a mortgage application to the land registration authority so requesting, the Authority shall enter particulars of the mortgage, if one be granted, in the Mortgage Certificates Register. The Authority shall at the same time enter particulars of mortgage certificate holders, if so requested by the applicant.

The provisions of subsection 1 shall also apply in connection with applications for mortgage measures of the kinds referred to in Chap. 22, Sections 7-9 and 11 of the Land Code.

Registration of mortgages granted previously

Section 6. On the holder of a written mortgage certificate so requesting, the Authority shall enter particulars of the mortgage corresponding to the mortgage in the Mortgage Certificates Register. The Authority shall at the same time enter particulars of mortgage certificate holders, if so requested by the applicant.

A mortgage may be entered in the Mortgage Certificates Register as aforesaid only if the written mortgage certificate has been submitted to the Authority. In conjunction with entry in the register, the mortgage certificate shall be destroyed.

The provisions of subsection 2 do not apply to mortgage certificates referred to in Chap. 22, Section 5 b, second sentence, of the Land Code.

In the case of mortgages granted before 1st January 1972, the provisions of this section concerning mortgage certificates shall also apply to mortgage documents as referred to in Section 24 of the New Land Code (Implementation) Act (1970:995). No such document need be destroyed, however, if endorsed to the effect that it no longer confers any right in the mortgaged property.

Registration of mortgage certificate holder

Section 7. If the mortgage certificates register contains no particulars of the mortgage certificate holder, the authority shall enter the mortgage certificate holder's particulars in the register on the party to be deemed mortgage certificate holder under Section 4 so requesting.

De-registration or change of mortgage certificate holder

Section 7 a. The Authority shall delete the mortgage certificate holder's particulars from the register on the party registered a mortgage certificate holder so requesting.

In connection with a measure as aforesaid, the Authority, on the applicant so requesting, shall enter new mortgage certificate holder particulars in the register

De-registration of mortgage, etc.

Section 8. On the party registered as mortgage certificate holder or to be deemed mortgage certificate holder pursuant to Section 4 so requesting, the Authority shall issue a written mortgage certificate corresponding to the mortgage. The Authority shall also issue a written mortgage certificate if the Swedish Enforcement Authority has attached the mortgage certificate held by the owner of the mortgage property

and requests the issue of a written mortgage certificate. In conjunction with the issue of the written mortgage certificate, the mortgage shall be removed from the Mortgage Certificates Register.

Section 9. If a mortgage entered in the Mortgage Certificates Register is cancelled or becomes void, the Authority shall remove the entry from the register. If a mortgage becomes void only in part or becomes the subject of a measure as referred to in Chap. 22, Sections 7-9 or 11 of the Land Code, an entry to this effect shall be made in the Mortgage Certificates Register.

Impediment to de-registration

Section 10. On the party registered as mortgage certificate holder or, pursuant to Section 4, to be deemed mortgage certificate holder so requesting, the Authority shall resolve that the mortgage is not to be deleted from the mortgage certificates register as provided in Section 8.

A decision as aforesaid shall apply until the land registration authority has concluded a transaction pursuant to Chap. 22, Sections 7-11 of the Land Code. The Authority may also cancel the decision earlier if the mortgage certificate holder so requests.

Section 11. On the Swedish Enforcement Authority so requesting, the Authority shall resolve that registration measures indicated in Sections 7-8 may not be taken. Such resolution shall apply pending an order to the contrary.

Consent to certain registration measures

Section 11 a. On an application for registration of ownership or an application for registration of acquisition of site leasehold having been declared dormant, a request, pursuant to Section 7, 8 or 10, by a party who, pursuant to Section 4, is to be deemed the mortgage certificate holder shall be granted only if the applicant in the registration transaction has consented to the measure in question.

Rectification

Section 12. A statement in the Mortgage Certificates Register shall be rectified if the statement contains a manifest inaccuracy, due to a clerical error, miscalculation or suchlike oversight on the part of the Authority or some other party or due to a technical fault. The party whose right is affected shall be given the opportunity of making a statement.

Preservation of data removed

Section 13. Data removed from the Mortgage Certificates Register pursuant to Sections 7-9 shall be preserved for at least 10 years.

Permission to be registered as mortgage certificate holder

Section 14. Permission to be registered as mortgage certificate holder is granted by the Authority.

In considering an application for such permission, the Authority shall particularly consider:

1. that the applicant has access to the technical equipment and the technical expertise requisite for the functioning of the mortgage certificates system,
2. that satisfactory procedures exist for the payment of stamp duty, service charges and registration charges, and
3. that in all other respects the applicant meets the requirements of suitability which should be made, having regard to the structure and workings of the mortgage certificates system.

Section 15. Permission as referred to in Section 14 may be revoked if the permit holder no longer meets the requirements indicated in Section 14 (2).

On a decision to revoke permission having acquired force of law, the Authority shall of its own accord take the measures indicated in Section 8, failing impediment to the same under Section 10 or 11.

Rights and obligations of the mortgage certificate holder

Section 16. A party registered as mortgage certificate holder or, pursuant to Section 4, to be deemed mortgage certificate holder has the rights and obligations which possession of a written mortgage certificate entails.

Filing of applications etc.

Section 17. Applications for measures referred to in Sections 6-8 and 10 and for permission as referred to in Section 11 a, and requests for the disclosure of particulars in the Mortgage Certificates Register may be filed with the Authority by the party who has obtained permission under Section 14 by means of an electronic document or otherwise with the aid of automatic processing.

Applications for measures referred to in Sections 8 and 11 may be filed by the Swedish Enforcement Authority with the aid of automatic processing.

The government or the authority being empowered thereto by the government may issue provisions to the effect that parties other than those granted permission under Section 14 may enter applications, consent and requests as referred to in subsection 1 through the medium of an electronic document.

By electronic document is meant a recording whose content and issuer can be verified by means of a certain technical procedure.

The Government or, as empowered by the Government, the Authority may issue prescriptions concerning technical procedure.

Procurement of data for the register

Section 18. In connection with registration measures pursuant to Sections 5-10, the Authority may obtain particulars concerning the mortgage and concerning registration of ownership and acquisition of site leasehold from the land register section of the Real Property Register with the aid of automatic processing.

Direct access

Section 19. A party having obtained permission under Section 14 may have direct

access to the Mortgage Certificates Register. Such direct access may refer only to particulars concerning mortgages for which the permit holder is registered as mortgage certificate holder. Direct access may, however, also include particulars of other mortgages if the mortgage certificate holder concerned has consented thereto.

Land registration authorities, the Swedish Enforcement Authority and cadastral authorities may also have direct access to the Mortgage Certificates Register. Such direct access, however, may only refer to particulars which, by consent of the mortgage certificate holder, may be disclosed to the Authority.

Section 19 a. The party last granted registration of ownership of a property may have direct access to such particulars in the mortgage certificates register as concern charges on the property. If the property is granted as site leasehold, such direct access may instead be had by the party identified in the land register section of the Real Property Register as site lessee.

Appeal

Section 20. Decisions by the Authority pursuant to this Act may be appealed in the county administrative court.

Power of attorney

Section 20 a. For the purposes of this Act, an agent need not produce written power of attorney except where considered necessary by the authority.

Damages

Section 21. Any party incurring damage due to an incorrect or misleading statement in the Mortgage Certificates Register or otherwise through errors in connection with the compilation or maintenance of the register is entitled to compensation from the State, if the error cannot be shown to be due to circumstances beyond the Authority's control, the consequences of which the Authority could not reasonably have been expected to avoid or overcome.

Compensation as indicated in subsection 1 can be reduced or eliminated according to what is equitable, if the damage was partly caused by the injured party.