

The new Mortgage Law goes into effect



The **new mortgage law** went into effect yesterday, Sunday, June 16, after being approved by the congress and published last March 16 in the Official State Gazette (BOE) and having transpired the three months of adaption set out for it.

This new regulating law on **real estate credit contracts** will result in **greater transparency** for the new mortgage loans and will offer **greater security** to the clients.

The new conditions for the concession of mortgages include, among others, the following changes:

- **Distribution of the expenses between the financial institution and the client:** the bank must pay all the procedural expenses, except the appraisal. That is, the tax on documented legal acts (IAJD) and the agency, notary and registry costs.
- **Lower interest** on late payments and early amortization.
- Freedom for the financial entities to set the **opening commission**. However, this must be paid only once and it must include all the expenses of study, processing and granting of the loan.
- **Prohibition of Spanish floor clauses** that set a minimum rate of interest.
- **Prohibition of the insurance linked** to the mortgage, such as home or life insurance.
- Decrease in the transactions costs associated to the **subrogation or to the novation** of the loan.
- **Increase of the number months of non-payment** before foreclosure on a mortgage loan.

In addition, the new law has an even **greater impact on the notary** in the process of formalizing a mortgage:

Before this law, the buyer of real estate property only had to go once to the notary office, on the date of signing the mortgage. However, with this new legislation, the notaries must prove that the consumers have received all the precise documentation and they have no questions. For this reason, they must make at least two visits: one in which the client may consult the contract carefully and



clarify all his doubts; and a second along with the institution, to formalize the signature.

Banks and financial institutions have had to adapt to the new conditions, both in the type of product they offer to their clients and in the way of sending the information to the notaries, since the new law establishes that they must receive all the documentation in a minimum of ten days in advance.

According to the Bank of Spain, the new law will promote **a better functioning of the mortgage market**, a decline in the current litigation but will generate more severe credit requirements when contracting a mortgage. In addition, the experts foresee that the higher constituting costs paid by the banks could generate an **increase in the interest rates of the new loans**.