

## LAW AMENDING THE LAWS RELATED TO HOUSING FINANCE SYSTEM

**ARTICLE 1** - The following paragraph is added just after paragraph one of the Article 45 of Law of Foreclosure No. 2004 dated June 9, 1932.

“In the foreclosure of the receivables arising from housing finance defined in paragraph 1 of Article 38/A of Capital Markets Law No. 2499, and receivables of Housing Development Administration that are secured by pledge of a mortgage, the creditor can choose to liquidate the mortgage or to distrain.”

**ARTICLE 2** - The following paragraph is added just after paragraph two of the Article 128 of Law No. 2004.

“In the foreclosure of the receivables arising from housing finance defined in paragraph 1 of Article 38/A of Capital Markets Law No. 2499, and receivables of Housing Development Administration that are secured by pledge of a mortgage, the foreclosure officer asks to the individual appraisers or the appraisal companies authorized in accordance with the subparagraph (r) of the Article 22 of the same Law to appraise the real estate to be sold.”

**ARTICLE 3** - The following paragraph has been added just after paragraph one of the Article 128/a of Law No. 2004. .

“In the foreclosure of the receivables arising from housing finance defined in first paragraph of Article 38/A of Capital Markets Law No. 2499, and receivables of Housing Development Administration that are secured by pledge of a mortgage, the expert examination required in the first paragraph will be done by the appraisal companies and individual appraisers authorized in accordance with the subparagraph (r) of Article 22 of the same Law, dated July 28, 1981.”

**ARTICLE 4** - The following paragraph has been added just after paragraph two of the Article 134 of Law No. 2004.

“The rate stated in second paragraph shall be 20% in the foreclosure of the receivables arising from housing finance defined in first paragraph of Article 38/A of Capital Markets Law No. 2499 and receivables of Housing Development Administration that are secured by pledge of a mortgage.”

**ARTICLE 5** - The following paragraph has been added to the Article 149/a of Law No. 2004 as paragraph three just after paragraph two.

“The rate stated in second paragraph shall be 30% in the foreclosure of the receivables arising from housing finance defined in first paragraph of Article 38/A of Capital Markets Law No. 2499 and receivables of Housing Development Administration that are secured by pledge of a mortgage. If the request for appeal is objected, half of the amount that is taken as collateral shall be paid to the creditor. If the value that is appraised and finalized after the sales request of the creditor does not meet the whole amount of receivables, the rest of the receivables shall be covered via the rest of the collateral; if there is still an excessive amount of collateral, that amount shall be returned to the person who deposited the collateral.”

**ARTICLE 6** - The following temporary article has been added to Law of Foreclosure No. 2004.

“Temporary Article 8 - After three years from the date the third paragraph of Article 128 and second paragraph of Article 128/a of this Law become effective, in the foreclosure of the receivables arising from housing finance defined in first paragraph of Article 38/A of Capital Markets Law No. 2499 and receivables of Housing Development Administration that are secured by pledge of a mortgage, the appraisal and expert examination may be made by other appraisers and experts rather than the appraisal companies and individual appraisers authorized in accordance with the subparagraph (r) of Article 22 of the same Law, dated July 28, 1981.”

**ARTICLE 7** - The following subparagraph has been added to the article 3 of Capital Markets Law No. 2499 dated July 30, 1981.

“k) Mortgage Capital Market Instrument: Mortgage Capital Market Instruments are, mortgage covered bonds, mortgage backed securities, capital market instruments other than stocks that are issued by mortgage finance corporations and other capital market instruments collateralized by the receivables arising from housing finance.”

**ARTICLE 8** - Article 13/A of Law No:2499 has been amended as follows.

“Mortgage Covered Bonds

Article 13/A – Mortgage covered bonds are debt securities which are general obligations of the issuer and secured by assets in the cover pools. Mortgage covered bonds can be issued by banks and mortgage finance corporations defined in Article 39/A of this law.

Issuers are required to register the collateral assets, apart from their other assets, in a cover pool. The procedures for registration of assets shall be determined by the Board, upon the consent of the Banking Regulation and Supervision Agency. The Board, upon the consent of the Banking Regulation and Supervision Agency, may oblige registration of the assets in the cover pool also in a third party registration agency.

The cover pool may consist of receivables secured by mortgages on authorized houses and authorized other real estate properties, substitute assets and contracts protecting against the risks associated with these. No assets other than these may be included in the cover pool.

For receivables secured by mortgages on authorized houses, no portion of a receivable in excess of 75% of the value of the house securing the receivable and for receivables secured by mortgages on other authorized real estate properties, no portion of the receivable in excess of 50% of the value of the real estate securing the receivable can be included in calculation of cover value. For receivables secured by mortgages on authorized houses and authorized other real estate properties to be included in the cover pool, all the payments due up to date of inclusion must have been made by the debtor.

Substitute assets may consist of cash, domestic public debt instruments, securities issued under treasury guarantee, securities issued by governments or central banks of OECD member states and other similar securities found appropriate by the Board.

Each of receivables secured by mortgages on other authorized real estate properties and substitute assets may not be higher than 15% of the cover pool.

Issuers may enter into contracts in order to protect assets in the cover pool from interest rate, currency, credit and similar risks. The contracts made for the purpose of protecting the assets in the cover pool from risks are also part of the cover pool.

At all times until redemption of the mortgage covered bonds,

a) The nominal value of the assets in the cover pool must equal or exceed the nominal value of the mortgage covered bonds.

b) The yield from the assets in the cover pool must equal or exceed the yield of the mortgage covered bonds.

c) The revenue from the assets in the cover pool must meet the payments to the mortgage covered bond owners in terms of amount and payment time.

d) The net present value of the assets in the cover pool must exceed the net present value of the mortgage covered bonds by 2%.

The principles regarding the execution of this article shall be determined by the Board.

Additional assets can be included in the cover pools in case of issuance of additional mortgage covered bonds or in order to comply with the principles written in paragraph 8. With the consent of the cover monitor, the issuers may take out or replace an asset in the cover pool for good cause.

Issuers must appoint a cover monitor approved by the Board. The qualifications of the cover monitor shall be defined by the Board. In order to protect the rights of the mortgage covered bond holders, The Board may request replacement of the cover monitor or may replace the cover monitor ex officio.

The cover monitor must inspect,

a) The establishment of the cover pool and the qualifications of the assets in the cover pool.

b) The existence of the assets included in the cover pool and the amendments in the qualifications of those assets.

c) Registration of the assets in the cover pool in a third party registration agency if the Board obliges such registration.

d) Conformity with regard to principles laid down in paragraph 8.

with respect to this article and report to the issuer and the Board according to principles determined by the Board.

The cover monitor is entitled to demand any kind of information from the issuer, registration agency and the title offices, to inspect relevant records and to get information from the employees. The issuer, registration agency and the title offices are required to provide the information and documents requested by the cover monitor. If the cover monitor is blocked to reach the information and documents he requested, he is obliged to inform the Board immediately.

Until the mortgage covered bonds are redeemed, the assets in the cover pool cannot be used for any other purposes other than securing the mortgage covered bonds, cannot be pledged, cannot be used as collateral, cannot be distrained including the collection of the public receivables, can not be subject to precautionary measure decisions of courts and cannot be included into the bankruptcy process.

The contracts made for the purpose of protecting the assets in the cover pool from risks must have a clause that prohibits the counterparty from terminating the contract in the event of bankruptcy of the issuer.

In case an issuer fails to meet its obligations related to covered bonds, the management of the issuer is taken over by public authorities, the operation license of the issuer is cancelled, or the issuer goes bankrupt, the income of the assets in the cover pool is used primarily to make payments to the mortgage covered bond holders and counterparties of the contracts made for the purpose of protecting the assets in the cover pool from risks. In this case the Board is authorized to decide for,

a) Liquidation of the assets in the cover pool, early redemption of the mortgage covered bonds, and appointment of a manager to manage relevant transactions; or gradual liquidation of the assets in the cover pool, and appointment of Investor Protection Fund to manage liquidation.

b) Transfer of all assets in the cover pool and liabilities related to the mortgage covered bonds to another qualified issuer.

c) Appointment of a manager, who will manage the assets in the cover pool and make payments to the mortgage covered bond holders with the income of the assets in the cover pool.

The Board is authorized to decide for compensation of the manager or the Investor Protection Fund in exchange for their services out of the assets in the cover pool and to determine principles regarding calculation of the amount of the compensation.

In case to meet its obligations related to covered bonds and the assets in the cover pool are not enough to pay the receivables of the mortgage covered bond holders, mortgage covered bond holders have the same rights with the other creditors over the other assets of the issuer.

The limits set in Article 13 are not applicable for mortgage covered bonds. Issue limits, issuing requirements, the contracts made for the purpose of protecting the assets in the cover pool from risks and the procedure for registration of these securities with the Board and any other issues regarding mortgage cover bonds shall be determined by the Board.

**ARTICLE 9** - The Article 13/B below has been added to be placed just after Article 13/A of Law No. 2499.

“Asset Covered Bonds

Article 13/B – Asset covered bonds are debt securities which are general obligations of the issuer and secured by assets in the cover pools. Eligible issuers, issue limits, issue requirements, types of assets that can be used as cover assets, limitations regarding types of cover assets, valuation and reporting standards regarding cover assets shall be determined by the Board.

Standards related to registration of cover assets shall be determined by the Board upon the consent of the Banking Regulation and Supervision Agency.

The Board may oblige the issuers to appoint and cover monitor. The cover monitor has to inspect the existence and quality of the cover assets, establishment of the cover pools, and registration of the assets in the cover pools, and has to report to the issuer and the Board according to principles determined by the Board.

The cover monitor is entitled to demand any kind of information from the issuer, registration agency and the title offices, to inspect relevant records and to get information from the employees. The issuer, registration agency and the title offices are required to provide the information and documents requested by the cover monitor. If the cover monitor is blocked to reach the information and documents he requested, he is obliged to inform the Board immediately.

Until the asset covered bonds are redeemed, the assets in the cover pool cannot be used for any other purposes other than securing the asset covered bonds, cannot be pledged, cannot be used as collateral, cannot be distrained including the collection of the public receivables, can not be subject to precautionary measure decisions of courts and cannot be included into the bankruptcy process.

The Board, upon the consent of the Banking Regulation and Supervision Agency, may oblige registration of the assets in the cover pool also in a third party registration agency.

The qualifications of the cover monitor shall be defined by the Board. In order to protect the rights of the mortgage covered bond holders, The Board may request replacement of the cover monitor or may replace the cover monitor ex officio.

**ARTICLE 10** - The subparagraph (r) of first paragraph of Article 22 of Capital Markets Law No. 2499 has been amended as follows.

“(r) To set the qualifications for the appraisal companies which are capable of appraising the real estates, that would engage in appraisal activity in capital markets and to publish the list of the appraisal companies which have met these qualifications, to determine the specifications for the appraisal companies and the appraisers which will appraise the real estate during the process of foreclosure of the receivables arising from housing finance defined in first paragraph of Article 38/A of the Law and during the appraisals which shall be done according to the fourth paragraph of the Article 38/A of the Law and to publish the list of the appraisal companies and the appraisers which have met these qualifications.”

**ARTICLE 11** - The following paragraph has been added to subparagraph (b) of Article 28 of the Law No. 2499 to be placed just after paragraph two.

“The registration fee corresponding to maximum 0,005% of the net asset value of the cover pool of the mortgage covered bonds, cover pool of the asset covered bonds, housing finance funds, asset finance funds and mutual funds, at the last working day of the each three-month period, shall be deposited to the Special Account in the following 10 days. Provided that it shall not be more than the ratio stated at this paragraph, the ratio of the registration fee shall be determined by the Council of Ministers Board.

**ARTICLE 12** - The Articles 38/A, 38/B and 38/C given below has been added to be placed just after Article 38 of the Law No. 2499.

“Housing Finance

Article 38/A - Housing finance is extension of loans to consumers to acquire houses; leasing of houses to the consumers through financial leasing; and extension of loans to consumers where such loans are secured by the houses that the consumer owns. Loans extended to refinance the loans explained in this context are also included in the housing finance.

“Housing finance institutions” are banks that lend or lease directly to the consumer for the purposes of housing finance and leasing companies and consumer finance companies which are found eligible to operate in housing finance by the Banking Regulation and Supervision Agency.

The Undersecretariat of the Treasury is authorized to determine the procedures and principles of the insurance contracts related to the housing finance by taking the opinion of the Association of The Insurance and Reinsurance Companies of Turkey; and Ministry of Industry and Commerce is authorized to determine the procedures and principles regarding the refinance of loans under housing finance by taking the opinion of Bank Association of Turkey.

For the loans and leasing receivables which are the basis or the collateral of the mortgage capital market instruments to be issued, The Board is authorized to require that the valuation of houses should have been performed by the authorized real estate appraisal companies and appraisers, during the process of lending or leasing, the process of inclusion of these receivables into the housing finance fund portfolio or into the cover pool of the mortgage covered bonds or the process of revaluation of these assets.

Housing finance fund

Article 38/B - Housing finance fund is a property established by means of the funds collected in return for mortgage backed securities issued on behalf of the mortgage backed securities` holders, in accordance with the principle of fiduciary ownership.

The founders, intermediaries of payments of credits held in fund portfolio and transactions related with these credits, the fund establishment limit, the assets to be taken into the fund portfolio including contracts done for the purpose of hedging these assets against the decrease in value or increasing the credit valuation, the portfolio restrictions, and the conditions to issue and register the mortgage backed securities with the Board are determined by the Board. The founders may provide guaranty for the mortgage backed securities issued.

Such a fund does not have any legal identity; however, its assets are separate from those of its founder. Until mortgage backed securities issued by the fund are redeemed, the assets of the fund can not be used for any other purpose, may not be pledged or cannot be used as collateral, cannot be distrained and can not be subject to precautionary measure decisions of courts, cannot be included into the bankruptcy process, even for the purpose of the collection of the government receivables.

The fund board shall represent, manage or supervise the management of the fund in such a manner as to protect the rights of the holders of the mortgage backed securities. The fund board is responsible from the accuracy of the registration of the assets and the protection

and the custody of the fund assets. The conditions regarding fund board and the principles and methods related to the management of the fund assets are determined by the Board.

The provisions of the Code of Obligations regarding procuration shall apply to the relationship between the founder, the fund board and the mortgage backed securities' holders, so long as this Law and related regulations do not provide otherwise.

The Board is granted to require that the registration of the fund assets shall also be held by another registration entity.

In case of having the credits backed by collateral or the receivables arising from the financial leases for a real estate in the fund portfolio, transfer of the credit or receivable to the fund shall be declared in the title of the related property. In case of having the credits backed by collateral or the receivables arising from the financial leases for a real estate in the fund portfolio, the Board may require that the collateral or the ownership (in case of financial leases) be registered to the title register under the name of the founder, on behalf of the fund.

The statute (trust indenture) of the fund is a contract between investors, the founder, and the fund board, if there is, which consists of the conditions involving the management of the fund portfolio in accordance with the provisions of proxy agreement and custody of the fund portfolio in accordance with the principle of fiduciary ownership.

Founders are obliged to apply to the Board with the status of the fund and necessary documents to be determined by the Board, in order to establish the fund and to register the mortgage backed securities to be issued.

Different classes of mortgage backed securities for different classes of fund portfolio may be issued. The principles regarding the classes of mortgage backed securities and the rights arising from a certain class of mortgage backed securities must be specified in the statute of the fund.

The Board is authorized to determine the principles and methods regarding the valuation standards for the fund assets, the principles of the operation and the management of the fund, the merger, the close up and the liquidation of the fund, the scope of the portfolio management and the custody contracts, the conversion of the fund, and the registration and announcement of the fund.

In case of a failure of the founder or the fund to repay, the Board may require that the fund be managed and represented by the Investor Protection Fund, or another Fund Board, designated by the Board or be transferred to another founder. In that case, if the founder provides guaranty, the founder keeps the liability, to repay, in full and in time, the portion of the mortgage backed securities issued which can not be paid by the fund portfolio. The Board is authorized to decide for compensation of the manager or the Investor Protection Fund, in exchange for their services, from the assets in the pool and to determine principles regarding calculation of the amount of the compensation.

The board is granted to take the necessary actions in case of a bankruptcy or liquidation of the founder or bankruptcy of fund board members.

Asset finance fund

Article 38/C - Asset finance fund is a property established by means of the funds collected in return for the asset backed securities issued on behalf of the asset backed securities' holders, in accordance with the principle of fiduciary ownership. The assets to be held by the fund portfolio are determined by the Board.

The provisions of the article 38/B other than the first one are also applied to the asset finance funds.

**ARTICLE 13** - Article 39 of Capital Markets Law No. 2499 has been amended as follows:

“Other capital market institutions are institutions whose establishment and principles of operation are determined by the Board, including institutions which are engaged in clearing and settlement functions, rating of the capital market instruments, institutions which are engaged in the supervision of issuers and capital market institutions, companies which carry out capital market activities such as investment consulting and portfolio management, asset management companies, mortgage finance corporations, housing finance funds, asset finance funds, venture capital mutual funds, venture capital investment companies, futures transactions intermediary institutions, real estate appraisal companies to operate in capital markets and portfolio custody companies.”

**ARTICLE 14** - Article 39/A given below has been added to be placed just after Article 39 of Capital Market Law No. 2499.

“Mortgage Finance Corporations

Article 39/A – Mortgage finance corporations are joint stock corporations, classified as capital market institutions and established solely for the purpose of taking over, managing and transferring the receivables arising from housing finance and providing financial resource by means of taking receivables arising from housing finance as collateral. Mortgage finance corporations may conduct risk management operations as required by their business transactions.

The paid in capital of mortgage finance corporations can not be less than the amount required for investment banks under the Banking Act No. 5411. Founders and shareholders holding, directly or indirectly, more than 10 per cent of the total shares or shares that have a privilege to appoint Board members must qualify for the requirements set for the banks' founders in the Banking Act No. 5411.

In case of assuring finance from mortgage finance corporations by giving receivables arising from housing finance or other assets as collateral, those collaterals can not be used for any other purpose, may not be pledged or given as collateral and may not be seized by third persons even for the aim of collecting the public receivables, may not be subjected to precautionary injunction and may not be included in bankrupt's estate. The Board, upon the consent of the Banking Regulatory and Supervisory Agency, may require keeping the records of the collateral receivables also at a separate registry institution.

The principles regarding to establishment, basis of operation, licensing for the activities and obligations of mortgage finance corporations are to be regulated by the Board upon the consent of the Banking Regulatory and Supervisory Agency. Mortgage finance corporations are required to apply to the Board to take permission for establishment and



operation. In the applications for the permission for establishment of mortgage finance corporations to which an institution under the regulation and supervision of Banking Regulatory and Supervisory Agency, is foreseen to participate, in order the permission of establishment to be given, the approval of Banking Regulatory and Supervisory Agency has to be taken.

**ARTICLE 15** - Article 40/D below is added to Capital Markets Law No: 2499. to be placed just after Article 40/C.

“The Association of Appraisal Specialists of Turkey

Article 40/D- Those who possess a real estate appraisal specialist license, are required to apply to become members of the Association of Appraisal Specialists of Turkey, which is a professional organization having the attribute of a civil institution possessing a legal entity. For this, license holder is obliged to make the required application within three months after it has been announced by a legal notice that he/she is granted the right to hold a license. The licenses of those who do not conform to the aforementioned obligation are cancelled by the Board.

The Association of Appraisal Specialists of Turkey is charged with the duty of and authorized to engage in research to provide for the development of the real estate market and real estate appraisal practices, to train and license, to constitute professional rules and appraisal standards for the sake of solidarity of its members and for their vigilance and discipline required to act in the occupation, to take the required measures with the objective of preventing unfair competition, to make, carry out and supervise regulations on the subjects entrusted to it by legislation or as determined by the Board, to impose disciplinary penalties envisioned in the statutes of the Association; to cooperate with related organizations representing the members on related matters, to follow the professional developments and the administrative and legal regulations and to inform the members on these subjects.

The Association prepares and publishes regional and national statistics regarding real estate valuations. The information concerning real estate valuations within the context of housing finance must be transmitted to the Association in line with the procedures that shall be determined by the Association.

The Association is obliged to conform with this Law, the regulations, communiqués and decisions of the Board and any other related legislation, in the decisions it makes and the regulations it adopts.

The members are required to comply with the Statues of the Association and decisions made by the Association.

The Association is subject to the provisions of Article 40/C of the Law.”

**ARTICLE 16** - The following paragraph to be placed just after the first paragraph has been added to Article 46/A of the Law No. 2499.

“In case of a decision for the gradual liquidation of the mortgage finance corporations given in accordance with subparagraph (h) of the first paragraph of Article 46 of this Law, the Board may decide that the gradual liquidation of mortgage finance corporations shall be

carried out by the Fund, or may decide that; in case of an issuer fails to meet its obligations at maturity, the total value of the obligations of the issuer exceeds total value of its assets, the management of the issuer is taken over by public authorities, the operation license of the issuer is cancelled, or the issuer goes bankrupt, the gradual liquidation or management of the cover pools of mortgage covered bonds or asset covered bonds, or, when the founder of asset finance fund or housing finance fund is in difficulty of paying back, the management or gradual liquidation of fund assets shall be carried out by the Fund. The Board determines the kind of Fund's income which will be used for the expenditures during the liquidation or management in the scope of this paragraph.

**ARTICLE 17** - The following Article 46/C has been added to Law No. 2499 to be placed just after Article 46/B.

“Gradual Liquidation of Mortgage Finance Corporations”

Article 46/C – A decision may be made by the Board for the gradual liquidation of mortgage finance corporations, the authorities of which have been removed in accordance with subparagraph (h) of the first paragraph of Article 46 of this Law. The liquidation operations of these institutions shall be carried out by the Investors' Protection Fund.

The objective of gradual liquidation is to liquidate the assets of mortgage finance corporations by setting aside the amount obtained by transforming the assets to in kind or cash according to their attributes. In the decision and operations of gradual liquidation, the provisions related to liquidation in the Turkish Commercial Code, the Execution and Bankruptcy Law and the other legislation shall not be applied. The principles and method of application for gradual liquidation of mortgage finance corporations shall be set forth in a regulation promulgated by the Board.

After a decision is made for gradual liquidation, the duties and authorities of the legal organs of the mortgage finance corporation shall be carried out by the Fund until the liquidation is concluded. However, the provisions of subparagraph (h) of the first paragraph of Article 46 is reserved.

Payments by the mortgage finance corporation for which a gradual liquidation decision is made shall be stopped and as of the date of this decision all its assets except the assets of housing finance funds, the assets of asset finance funds and the collateral pools of asset covered bonds and mortgage covered bonds may be used only by the Fund. The Fund shall determine the assets and liabilities of the mortgage finance corporation. The cash debts in the scope of the obligations that should be liquidated shall be calculated over the total principal capital and accrued interests at the date of the decision of gradual liquidation. The rights and obligations arising from securities with maturity dates after the date of the decision for the gradual liquidation of the mortgage finance corporation shall be determined as of their maturity dates. Legal default interest shall be applied at the rate envisioned in the third paragraph of Article 2 of Law No. 3095 Related to Legal Interest and Default Interest as of the maturity date of term debts and as of the date of the gradual liquidation decision for the other debts. In accordance with the legislation, guarantees given by the mortgage finance corporation are also taken into consideration in the assets account.

The Fund shall determine the real holders of rights and the amounts of their receivables which are in the scope of liquidation of the mortgage finance corporation based on the records

kept by the Board, the records of the mortgage finance corporation, the records of other official and private institutions related to these organizations and other reliable information and documents. In case there is the existence of the conditions described in Articles 278, 279 and 280 of Execution and Bankruptcy Law, an annulment lawsuit may be opened by the Fund.

The assets of the mortgage finance corporation shall be used for the payment of the receivables of the holders of the rights in the scope of the objective of the liquidation. However, if the liquidation balance is not sufficient to meet all of these receivables, then payments shall be made by pro rata distribution. After all of these receivables are met, then from the remaining portion, first of all the public receivables and from the remaining amount, the receivables arising from the liquidation expenses made by the Fund shall be paid. The balance is distributed to the other creditors. If the assets of the mortgage finance corporation are not sufficient to meet the receivables of the holders of rights in the scope of the objective of liquidation, the payments made from the Fund and the liquidation expenses, then the Fund, with the concurrence of the Board, may request the bankruptcy of the mortgage finance corporation.”

**ARTICLE 18** - The fifth subparagraph of paragraph (A) and paragraph (C) of the first paragraph of Article 47 of the Law No.2499 have been amended as follows.

“5- The related real persons and authorized persons of legal entities who sell or create a pledge or use in whatever manner for the benefit of themselves or someone else, capital market instruments, cash or other assets of any kind which are consigned or delivered physically or by registration to capital market institutions, to cover monitors in the context of Articles 13/A and 13/B of this Law and to fund board in the context of Articles 38/B and 38/C of this Law in the course of capital market activities or as a trustee or to manage them or to use them as a guarantee or for whatever use; or who conceal or deny or transform and alter records including those kept in a computer environment for such purpose or hide such acts,

“C) Those who act in violation of the second paragraph of Article 6 of this Law or Articles 7, 9, 10, 10/A, 11 or 12; the fifth paragraph of Article 13; the second, third, fourth, fifth, sixth, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth and fifteenth paragraphs of Article 13/A, the third, fourth and fifth paragraphs of Article 13/B; the third paragraph of Article 14; the first, second, third, fourth and fifth paragraphs of Article 15; Article 16 or 16/A; subparagraph (a) of Article 25; subparagraph (b) of Article 28; Article 34; Articles 38, 38/A, the third, fourth, seventh, ninth, tenth and twelfth paragraphs of Article 38/B, the third, fourth, seventh, ninth, tenth and twelfth paragraphs of Article 38/B in the context of Article 38/C, Article 39/A, Articles 40/B, 40/D, Article 45, the second and fifth paragraphs of Article 46; Article 46/A, Article 46/B or Article 46/C shall be punished with a judicial pecuniary fine of 1.250 days.”

**ARTICLE 19** - The paragraph given below has been added just after the fourth paragraph of Article 47/A of the Law No. 2499.

“For the members who do not conform to the responsibilities in the fifth paragraph of Article 40/D of this Law, a pecuniary punishment of from 1.000 YTL up to 5.000 YTL shall be imposed by the Board of Directors of Association of Appraisal Specialists of Turkey. The Association, along with notifying, on the one hand, the relevant party of the punishments given, on the other hand shall also inform the Investors' Protection Fund for the collection and registration of revenues.”

**ARTICLE 20** - Interim provisions below have been added to the Law No:2499.

“Interim Provision 10 – The Statutes of Association of Appraisal Specialists of Turkey shall be put into force within maximum two years from the date that this Law goes into effect. Those who have license of real estate appraisal, are obliged to the Board for membership in the Association of Appraisal Specialists of Turkey within this period.

These membership applications shall be concluded by the Board. The Board shall summon the Association members to their first general assembly meeting within one month after the Statutes go into force. The costs related to the first meeting will be assumed by the Board with the condition that the Board will be repaid when the organs of the Association is formed.

Interim Provision 11 – Consumers who have become a party of credit and financial leasing agreements arranged before this article is in effect, which conform to the definition of housing finance in Article 38/A of this Law, may apply to the related housing finance institution and demand the transaction which is subject of the agreement to be considered outside of the scope of housing finance defined in the first paragraph of Article 38/A of this Law. The agreements of the consumers who do not demand in time shall be considered in the scope of the first paragraph of Article 38/A of this Law. For the agreements which have been signed according to the Law on Protection of Consumers no. 4077, before this article is in effect, if the debt is prepaid, the provisions of article 10 of the Law on Protection of Consumers no. 4077 shall be applied.

Interim Provision 12 – Leasing companies and finance companies may not carry housing finance activities for six months after the enactment of Article 38/A of this Law.”

**ARTICLE 21** - The subparagraph (r) given below has been added to the Article 3 of Law on Protection of Consumers no. 4077 dated 23.2.1995

“r) Housing Finance Institution: Institutions that provide housing finance as defined in the second paragraph of Article 38/A of Capital Markets Law No. 2499 dated 28.07.1981”

**ARTICLE 22** - The third paragraph of the Article 4 of the Law No.4077 has been amended as follows.

“The manufacturer-producer, seller, dealer, agent, importer and creditor who grants credit in accordance with paragraph five of Article 10 or paragraph nine of Article 10/B shall be jointly liable for the defective good and for the consumer's right of selection provided for in this Article. The liability of the housing finance institution that grants credit in accordance with the ninth paragraph of Article 10/B, is limited with the credit amount and with one year from the delivery, Even the credits granted by housing finance institutions in accordance with ninth paragraph of Article 10/B are transferred, that housing finance institution who grants credit keeps the liability. Transferee is not held liable under this article. In the event that more than one person is responsible for the damages caused by the defective good, such persons shall be held jointly responsible. Non-cognizance of the defect existing in the good sold shall not eliminate this responsibility. ”

**ARTICLE 23** - The third paragraph of the Article 7 of the Law No.4077 has been amended as follows.

“In the event that the delivery of the good or performance of the service announced or undertaken has not been effected at all or as it should have been, the seller, supplier, dealer, agent, manufacturer-producer, importer and creditor who grants credit in accordance with subsection five of Article 10 shall be jointly responsible. In the event that the delivery of the house announced or undertaken has not been effected at all, as it should have been or in time, the housing finance institution who grants credit, under the terms of housing finance in accordance with the ninth paragraph of Article 10/B, shall be jointly responsible up to the credit amount, with the seller, supplier, dealer, agent, manufacturer-producer, importer. Even the credits granted by housing finance institutions in accordance with ninth paragraph of Article 10/B are transferred, that housing finance institution who grants credit keeps the liability. Transferee is not held liable under this article.”

**ARTICLE 24** - The Article 10/B given below has been added to Law No.4077.

“Mortgage Finance Transactions

Article 10/B - Housing finance institutions are obliged to provide general information about loans or leasing transactions and “Pre-contractual Information Sheet” including the conditions of the loan or leasing agreements offered to the consumer before making the contract. Consumer has the right not to accept the offer.

The scope of the general information and the standards of “Pre-contractual Information Sheet” to be provided by housing finance institutions shall be determined by Ministry of Industry and Trade by taking opinions of the related associations. Contracts signed before one day passed after the Pre-contractual Information Sheet provided to the consumer, will be invalid.

Housing finance contracts have to be written and a copy of the contract has to be submitted to the consumer. The conditions of the contract cannot be amended against the favour of the consumer during the term of the contract.

In case the borrower misses a payment, housing finance institution is obliged to notice the borrower with return mail within five working days.

If the housing finance institution reserves the right to claim the payment of the remaining credit amount at once, in case one or more payments are not made, this right can only be used on the conditions that the housing finance institution fulfils all its liabilities and that the consumer defaults on at least two consecutive payments. For the mortgage finance institution to use this right, it has to give at least a month notice that the payment is due.

In financial leasing transactions, in case the financial leasing agreement is cancelled by the housing finance institution in order to receive the remaining credit amount after the time given in the maturity notice has passed, the housing finance institution is under the obligation of putting the house up for sale. Before the sale, the housing finance institution assigns the appraisers or the appraisal companies, authorized by subparagraph (r) of paragraph 1 of article 22 of Capital Markets Law No 2499, to determine the value of the house. The consumer must be informed about the value of the house ten business days in advance of the sale of the house. The housing finance institution shall sell the house acting in a prudent way, regarding the value of the house. The consumer is responsible for the loss of the housing finance institution exceeding the amount that is obtained through the sale of the house. If the amount obtained

through the sale of the house is above the remaining debt, then the amount exceeding the debt will be paid to the consumer. Article 7, Article 25 and Article 31 of Financial Leasing Law No 3226 shall not be applied to the financial leasing agreements regarding the housing finance.

Following the sale of the house and payment of the remaining debt above the sale value, the consumer or if the possession has been transferred, the third parties who has the right of possession, has to vacate the house. If the house is not vacated, the owner of the house has the right to exercise foreclosure against the consumer or, if the possession has been transferred, the third parties who has the right of possession, according to article 26 and article 27 of Law of Foreclosure.

If the housing finance is backed by a personal guarantee, then the housing finance institution can not demand payment from the guarantor before calling upon the borrower.

In the case of housing loans within the scope of the housing finance, defined in the first paragraph of Article 38/A of Capital Markets Law, the creditor, that grants credit on condition that a sales contract is concluded with a specified seller, or for the purchase of a specified house, shall be jointly liable to the consumer, with the seller, up to the credit amount, if the house sold has not been delivered at all or in time. Even the credits granted by housing finance institutions in accordance with ninth paragraph of Article 10/B are transferred to the mortgage finance corporations, housing finance funds or mortgage covered bond cover pools, the housing finance institution who grants credit keeps the liability. Transferee is not held liable under this article.

It is prohibited that the housing finance institution links the payments to commercial paper or accepts commercial paper as guarantee of the payments. If, in spite of this prohibition, the housing finance institution accepts a commercial paper from the consumer, then the consumer has the right to demand this paper back from the housing finance institution. Besides that, the housing finance institution is obliged to compensate for the losses of the consumer resulting from the transfer of the commercial paper to the others.

The repayment amounts for loan agreement, the lease payments for leasing agreements that are above principal will be accepted as interest payment.

The interest rates of the credits issued for housing finance or financial leasing agreements can be fixed or variable with the condition that it is stated in the contract. In case the interest rate are decided to be fixed, the interest rate which is stated in the contract cannot be changed without the consent of both parties. In case the interest rate is decided to be variable, the interest rate determined by the contract can be changed according to an index stated in the contract which must be a generally accepted and widely used index in national or international level, however maximum amount of periodic repayment amount stated in the contract can not be exceeded by periodic repayment amount. In case the interest rate is decided to be variable, then it is necessary that the consumer be informed about the possible effects of this method. Central Bank of Republic of Turkey shall determine the reference interest rates and indexes to be used, whereas Ministry of Industry and Trade shall determine the principles and guidelines to inform the consumers.

The consumer may prepay the total sum indebted, as well as one or more installments not yet in due and payable. In either case, the housing finance institution is obligated to make necessary deductions in interest and fees corresponding to the sum prepaid. The principles and

guidelines for determination of the extent to which that deduction be made and annual percentage rate be calculated shall be applied according to the related bylaw of Ministry.

In case the interest rate is determined to be fixed, on condition that it is stated in the contract, for one or more payments made before due, the creditor may demand a prepayment fee from the consumer. The prepayment fee cannot exceed 2% of the prepaid sum, calculated by making the necessary deductions of interest and fees. A prepayment fee cannot be demanded from the consumer, in case the interest rate or lease payments are determined to be variable.

The contracts for mortgage credits must contain at least the following issues:

- a) For mortgage credit contracts, the amount of the credit. For financial lease agreements, the total amount of rent.
- b) For mortgage credits the information about the house to be mortgaged, for leasing agreements the information about the house to be leased,
- c) The annual interest rate and the annual percentage rate (for the variable interest rates, the annual interest rate and the annual percentage rate are calculated separately for initial and the maximum interest rates)
- d) The total debt amount with interest and other components (for the variable interest rates the total amount of debt to be calculated separately for both the initial interest rate and the maximum interest rate)
- e) For the contracts with variable interest rates, the calculation method of the changes in the index and the interest rate.
- f) For the first year, periodically; for the other years, annual payment plan in which the payment dates, the principle, the interest and other costs are shown separately (for the variable interest rate contracts, two payment plans with the initial interest rate and the maximum interest rate)
- g) Number of pay backs/lease payments, the payment days, the date that the payments shall be made if the preset payment date happen to be official holiday, first and last payment dates,
- h) The guarantees to be demanded.
- i) The interest rates for late payments of credit contracts, not to exceed the contractual rate plus 30% of the contractual rate (the current rate for variable interest rates), the interest rates for late payments of the lease agreements,
- j) The legal consequences of the default of the consumer,
- k) The conditions as to the instalments to be paid before due and if a prepayment fee is determined, the principles regarding the calculation of this fee,
- l) If the credit is in terms of a foreign currency, the conditions as to which exchange rate to be used for the calculation of instalments and the total credit amount,
- m) The cases when to value the house and the eligible appraisers,
- n) Insurance information of the house, if there is.

The periodic invoices sent to the consumer must include the information in subparagraph (d) of the fifteenth paragraph and the amount of the indebtedness.”

In the execution of this article, the natural person partners of the housing cooperatives shall be considered as consumers.

**ARTICLE 25** - The expression of “In the Article 10/B” has been added to be placed after the expression “in the Article 10/A” in the second paragraph of Article 25 of Law No.4077.

**ARTICLE 26** - The following paragraphs are added to the Article 15 of Leasing Law No. 3226 dated June 10, 1985

“In leasing transactions for housing finance or investment finance the lessee can transfer his title as a lessee and/or his rights and/or obligations arising from the contract to another lessee upon the written consent of the lessor. The contract is subject to registration requirements as set out in Article 8. The amendment of the lessee in the leasing agreement shall be registered or explained in the context of Article 8 of this Law.

It is possible that the lessee can transfer the possession of the house to another person provided that, the lessee shall inform the lessor for the leasing transactions done in the context of housing finance, and such as transfer is covered in the financial leasing contract for other types of leasing transactions.”

**ARTICLE 27** - Interim provision below has been added to the Law on Mass Housing No. 2985, dated March 2, 1984.

Interim Porvision 10- The receivables of the Housing Development Administration secured or unsecured by pledge of a mortgage, can be transefered to or transferred by mortgage finance corporations.

**ARTICLE 28** - The first and fifth subparagraphs of the second paragraph of Article 75 of Law No.193 are amended as follows:

“1. The dividends of stocks of all kinds (including dividends of founder’s share and other bonus share and all kinds of payments paid to shareholders under the name of interest paid for preparation period or other names and profit shares paid for participation certificates of mutual funds established in accordance with the Capital Markets Law and interests, dividends or gains like these paid for mortgage backed securities of housing finance funds and asset backed securities of asset finance funds.)

5. The interests of bonds (excluding mortgage backed securities, including mortgage capital market instruments and asset covered bonds issued by mortgage finance corporations and housing finance institutions) and treasury bills of all kinds and income gained from securities issued by Mass Housing Development Administration, Public Partnership Agency and Privatization Agency (Value increases resulted from the redemption of securities which are issued in foreign currency or which are indexed to foreign exchange, gold or another value are not regarded as income)

**ARTICLE 29** - The subparagraph below has been added to be placed after the subparagraph (e) of the seventh subparagraph of the first paragraph of Article 94 of the Law No. 193,

“f) Interest and profit share income generated from the mortgage capital market instruments issued by mortgage finance corporations and housing finance institutions”



**ARTICLE 30** - The subparagraphs (i) and (u) of Article 29 of Expenditure Taxes Law No. 6802 dated July 13, 1956 has been amended as follows and the subparagraph given below has been added to the Article 29 of the Law.

“i) The money gained from the agreement or policy signed for pension agreements, life insurance (including the agreements which have additional assurances for personal accident insurance, disability due to illness dangerous illnesses), health insurance and transportation insurance related to the exports and insurance done in the context of housing finance defined in the first paragraph of the Article 38/A of Capital Markets Law No.

“u) The premiums gained by banks, insurance companies, pension companies and mortgage finance corporations as a result of selling their stocks above their nominal values during their establishment and capital increases.

“y) The money gained from all transactions (including those based on foreign currency) in the context of housing finance defined in the first paragraph of Article 38/A of Capital Markets Law No.2499 carried out by mortgage finance corporations, housing finance institutions and housing finance funds.

**ARTICLE 31** - The subparagraphs (o) and (p) given below have been added to the Article 59 to be placed after subparagraph (n) of Duties Law No. 492 dated July 2, 1964:

“o) All mortgage transactions made in the context of housing finance defined in the first paragraph of Article 38/A of Capital Markets Law No.2499 by housing finance institutions and mortgage finance corporations,

p) The transfer of the house, which is subject to financial leasing agreement in the context of housing finance defined in the first paragraph of Article 38/A of Capital Markets Law No.2499, to the lessee”

r) Mortgage transactions that shall be done due to the house sales done by the Housing Development Administration.

**ARTICLE 32** - A) The subparagraph below has been added to be placed after subparagraph (e) of subparagraph named “1-Ad Valorem Fees” of paragraph “III- Resolution and Decree Fees” of section “(A) Judiciary Fees” of tariff no.1 tied to Law No. 492.

“f) 0.54% of the amount when the subject of the lawsuits is related to a certain amount and when the demand for cancellation of the auctions related to foreclosure of the receivables arising from housing finance defined in first paragraph of Article 38/A of Capital Markets Law No. 2499 and receivables of Housing Development Administration secured by pledge is refused.

The Council of Ministers, is authorized to decrease the rate written on this subparagraph, down to 0.10% or increase the rate up to the rate written on the Law for certain types of trials or in general.”

B) The subparagraph below has been added to be placed at the end of subparagraph named “3-Collection Fees related to the enforcement proceedings of a certain amount” of

paragraph "I- Enforcement Fees" of section "(B) Enforcement and Bankruptcy Fees" of tariff no.1 tied to Law No. 492.

"h) In the foreclosure of the receivables arising from housing finance defined in first paragraph of Article 38/A of Capital Markets Law No. 2499 and receivables of Housing Development Administration secured by pledge, the one-fourth of the collection fees mentioned in this subparagraph shall be executed."

**ARTICLE 33** - The subparagraph 10 of the section XI. Financial activity duties of the tariff numbered (8) tied to the Law No. 492

**ARTICLE 34** - The subparagraph 36 given below has been added to the chapter (IV) "Papers relevant to the commercial and civil transactions" and the subparagraphs 23 and 24 given below have been added to the chapter (V) "Papers relevant to institutions" of Table no.2 tied to Stamp Duty Law No. 488 dated July 1, 1964:

"36. Papers issued regarding the issuance of capital market instruments, housing finance transactions of housing finance institutions and issuance of mortgage capital market instruments, asset covered bonds and securities on behalf of asset finance funds and papers and receipts issued related to the collaterals subject to these issuances."

"23. Papers and receipts issued during every transaction of mortgage finance corporations and housing finance funds including their establishment, issuance of mortgage capital market instruments, asset covered bonds and securities on behalf of asset finance funds and collaterals subject to those issuances of which the stamp duty is to be paid by these corporations and funds."

"24. Papers and receipts issued regarding the Housing Development Administration's security issuances and collaterals subject to those issuances, whose stamp duty should be paid by this institution."

**ARTICLE 35** - The subparagraph below has been added to the fourth paragraph of Article 17 of Value Added Tax Law No. 3065, dated October 25,

"§) Submission of the house which has been collateralized or mortgaged, for the purpose of housing finance defined in the Article 38/A of the Capital Markets Law No.2499 to housing finance institutions, Housing Development Administration, mortgage finance corporations or third parties (including the sales done in the auction location) and the submission of the house which is bought by this way by the housing finance institutions, Housing Development Administration, mortgage finance corporations (including the sales done in the auction location)

**ARTICLE 36** - This act will become effective upon promulgation.

**ARTICLE 37** - This act will be enforced by the Council of Ministers.