

PURCHASE OF REAL ESTATE

By law, foreigners' access to purchase real estate in Denmark is quite restricted, although it is easier for citizens and companies from the EU/EEA than for citizens and companies from outside the EU/EEA.

Certain requirements for EU and non-EU residents

The purchase of Danish real estate by foreigners is subject to a number of restrictions.

Foreigners, who are not citizens of an EU/EEA country, or companies from a non-EU/EEA country, are only permitted to purchase real estate in Denmark if the appropriate authorisation to do so has been obtained from the Danish authorities.

Citizens and companies of an EU/EEA country have a somewhat easier access to purchase real estate as, in some situations, no authorisation is needed, although certain requirements must still be complied with. In particular, purchase of real estate without authorisation is only possible under certain circumstances; for the purpose of serving as the purchaser's all-year residence or if the purchase is necessary in order to perform independent business or to provide public services in Denmark.

The abovementioned restrictions do not apply to individuals who have been residents of Denmark for a total of five years at the time of purchase, regardless of their nationality.

What to be aware of before purchasing real estate

Prior to the purchase of real estate, a number of issues should be considered including the following:

- a) Do any third party rights to the property exist?
- b) Are there any potential or pending disputes regarding the property?
- c) What is the environmental status of the property? If the property is polluted this may have serious economic consequences.

In order to ensure that these and other relevant issues are properly looked into, it is usually recommended to carry out a due diligence of the property in question prior to entering into a commercial purchase agreement.

How to secure your right of title

Transfers of real estate must be registered with the Danish Land Register in order to be valid towards third parties. When purchasing real estate, the parties to the agreement usually sign a purchase agreement and a deed of transfer. The purchase agreement contains the entire agreement and is kept by either of the parties, while the deed of transfer only contains the material provisions of the transfer agreement and is used for the purpose of registering the transfer with the Danish Land Register.

The Danish Land Register is a register of all real estate in Denmark. Apart from registering ownership to real estate, the rights of third parties to real estate are also registered here. While the purchaser must respect any third parties' registered rights, he is generally not obligated to respect rights that have not been duly registered and of which he is not aware.

Accordingly, the Danish Land Register should always be consulted before purchasing real estate, whether or not an actual due diligence is carried out. However, it is important to be aware that certain rights do not need to be registered, including usual rights of use.

Is it possible to take out a mortgage in real estate?

Mortgaging of up to 80% of the real estate's value may generally be achieved by a mortgage credit institution for private houses and up to 70 % for commercial real estate. However, there is no limit to how much mortgage can be registered. Hence, mortgage can be registered for more than the actual value of the real estate.

Such mortgage must be registered with the Danish Land Register to be protected against a new purchaser, other mortgage rights and other rights.

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